

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

April 3, 2013 Meeting
Agenda Item 4

SUBJECT: Knight Residence (PA2013-044)
312 Hazel Drive

Ou Residence (PA2013-043)
316 Hazel Drive

APPLICANT: Diane Knight and Honzen Ou

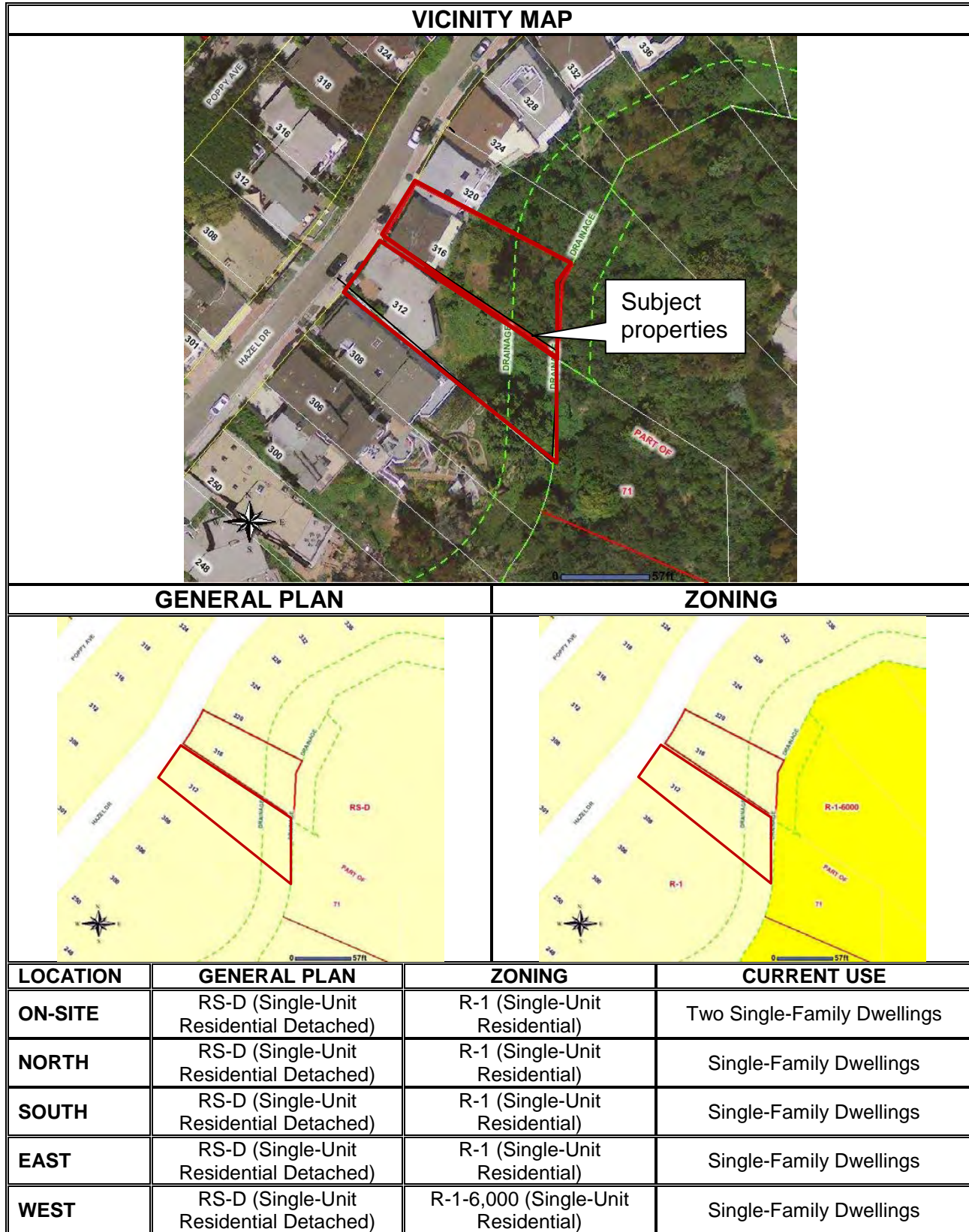
PLANNER: Makana Nova, Assistant Planner
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PROJECT SUMMARY

Appeals of the Community Development Director's determination of the canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 for two single-family residential properties adjacent to Buck Gully.

RECOMMENDATION

- 1) Conduct a de novo public meeting;
- 2) Adopt Resolution No. ____ modifying the decision of the Community Development Director and establishing canyon development stringlines for principal and accessory structures at 312 Hazel Drive pursuant to General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 1); and
- 3) Adopt Resolution No. ____ modifying the decision of the Community Development Director and establishing canyon development stringlines for principal and accessory structures at 316 Hazel Drive pursuant to General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 2).



INTRODUCTION

Project Setting

The subject properties are located within Old Corona del Mar on Hazel Drive south of East Coast Highway. The neighborhood is characterized by single-family and two-unit residential structures. The adjacent properties are currently developed with single-family residences.

The subject properties are adjacent to each other and slope downward from Hazel Drive into Buck Gully. Buck Gully is considered a coastal canyon and is characterized by vegetation, habitat, and a drainage feature that flows to the Pacific Ocean at the bottom of a ravine. Photos of the sites are provided as Attachment No. PC 3.

312 Hazel Drive – Knight Residence

The 7,546-square-foot property was initially developed in 1953 with a 1,540-square-foot single-family residence. On January 10, 2008, the Planning Director issued a letter detailing development limits based on interim criteria created by the City to implement the 2006 General Plan prior to update of the Zoning Code (Attachment No. PC 4). The interim criteria were eliminated upon adoption of the Zoning Code update in 2010. The letter did not address General Plan Policy NR23.6 (Canyon Development Standards) or Coastal Land Use Plan Policy 4.4.3-18, nor did it establish a predominant line of existing development (PLOED) or canyon development stringlines at that time. A building permit was issued on August 17, 2009, consistent with the Planning Director's guidance (Attachment No. PC 5). The building permit subsequently expired on January 31, 2011.

316 Hazel Drive - Ou Residence

The 5,661-square-foot property was initially developed in 1949 with a 954-square-foot single-family residence. Construction plans for a new single-family residence were submitted on May 11, 2009, and a building permit was issued on May 24, 2010, (Attachment No. PC 6). Permits were issued based upon the existing development pattern and the anticipated development that had been permitted at 312 Hazel Drive. The building permit associated with 316 Hazel Drive was cancelled on February 9, 2012, at the request of the applicant.

Community Development Director's Determination

Mr. Honzen Ou, property owner of 316 Hazel Drive, is considering the sale of his lot and inquired if the City would issue permits for the development previously permitted in 2010. After thorough review of the previously approved plans and the existing development pattern of abutting lots, the Community Development Director determined that the plans were not consistent with General Plan Policy NR23.6 (Canyon

Development Standards) and Coastal Land Use Plan Policy 4.4.3-18. The letter also included a figure showing canyon development stringlines that were determined to be consistent with General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 7).

Ms. Diane Knight, property owner of 312 Hazel, is also considering the sale of her property, and a prospective buyer inquired if the City would reissue permits for the previously permitted construction. Again, after a thorough review of the previously approved plans and the existing development pattern of abutting lots, the Community Development Director determined that the previous plans were not consistent with General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18. Additionally, the letter included a figure showing canyon development stringlines that were determined to be consistent with General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 8).

As stated above, an interim criterion was utilized to establish the development limits in 2008, which was eliminated with adoption of the Zoning Code update in 2010. Therefore, development potential is determined by applying the General Plan and Coastal Land Use Plan policies.

Appeals

On February 25, 2013, Honzen Ou, filed an appeal (Attachment No. PC 9) of the Community Development Director's determination for 316 Hazel Drive. On February 28, 2013, Diane Knight, property owner of 312 Hazel Drive, joined Mr. Ou's appeal (Attachment No. PC 10). Staff notes that the Planning Commission is not bound by the Community Development Director's decision and is not limited to the issues raised in the appeal.

DISCUSSION

Both lots are designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element. The properties are designated RSD-A (Single-Unit Residential Detached) by the Local Coastal Program, Coastal Land Use Plan. Both lots are within the R-1 (Single-Unit Residential) Zoning District, allowing single-family residences with appurtenant structures and uses. Development of single-family residences on these lots does not require Coastal Development Permits provided the development is consistent with Categorical Exclusion Order E-77-5.

Canyon development setbacks or stringlines are established to protect coastal canyons as a natural and visual resource. Natural Resources Goal NR23 of the General Plan, relating to visual resources, provides:

“Development respects natural landforms such as coastal bluffs.”

Several policies of the General Plan support Goal NR23, three of which are directly applicable to development along coastal canyons.

1. General Plan Policy NR23.1 (Maintenance of Natural Topography) provides:

“Preserve cliffs, canyons, bluffs, significant rock outcroppings, and site buildings to minimize alteration of the site’s natural topography and preserve the features as a visual resource. (Imp 2.1)”

This policy recognizes coastal canyons, including Buck Gully, as a visual resource and emphasizes the consideration of topography and natural landforms to implement Goal NR23 of the General Plan.

2. General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 establish the following development restriction for Buck Gully and Morning Canyon:

“Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements.”

This policy requires the establishment of canyon development setbacks based upon a predominant line of existing development (PLOED). To date, the City has not established a PLOED in either Buck Gully or Morning Canyon. The establishment of canyon development setbacks is anticipated with the preparation of the Local Implementation Plan (LIP) that is currently under way. The policy prohibits development beyond stringlines drawn between development on adjacent lots.

The objective of implementing canyon development setbacks is to provide flexibility, equity, and certainty for property owners while preserving coastal canyons as a natural and visual resource.

3. General Plan Policy NR 23.7 (New Development Design and Siting), states:

“Design and site new development to minimize the removal of native vegetation, preserve rock outcroppings, and protect coastal resources. (Imp 2.1)”

This policy recognizes the need to consider natural topography in the site design process and to achieve a balance between private property development and the protection of natural resources.

Policy Implementation

General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 are specific to establishment of development limits along coastal canyons. In the absence of an established PLOED for either Buck Gully or Morning Canyon, staff utilizes stringlines, as prescribed by the policies, to review development for the canyon-facing properties. A combination of techniques is typically utilized on a case-by-case basis, including the review of surveys showing structures on the subject property and adjacent properties, topographic maps, aerial photographs, photos of the subject properties, permit history, and site visits to determine the location of stringlines for principal structures and accessory improvements.

Stringlines

The canyon development stringlines established by the Community Development Director for the subject properties were drawn from the nearest adjacent corners of development of the two abutting lots. The figure to the right is a representation of the stringlines provided in Attachment Nos. PC 7 and PC 8.

For 312 Hazel Drive, the principal structure stringline was drawn between the nearest adjacent corner of the principal structures at 308 Hazel Drive

and the corner of the retaining wall at 316 Hazel Drive. The accessory improvement

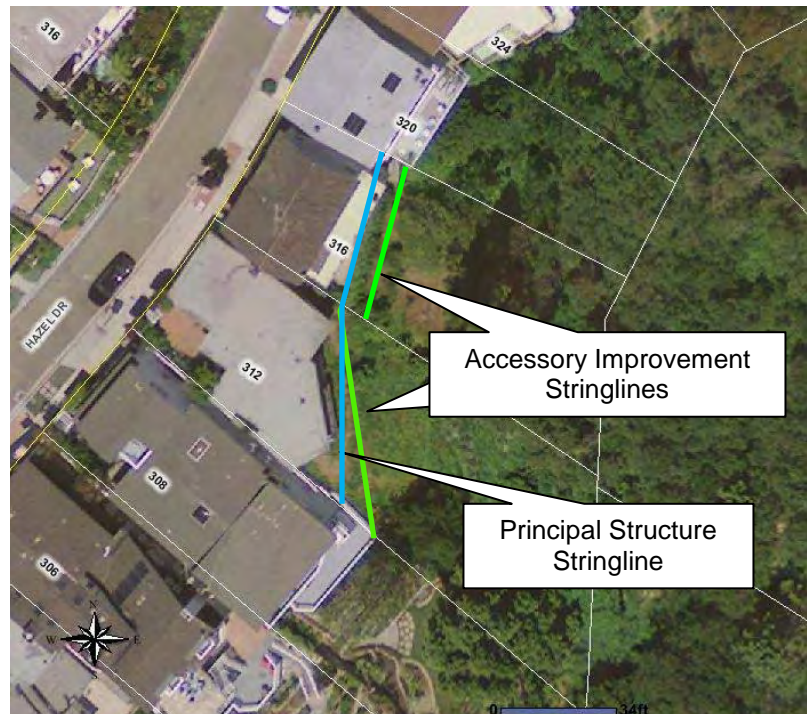
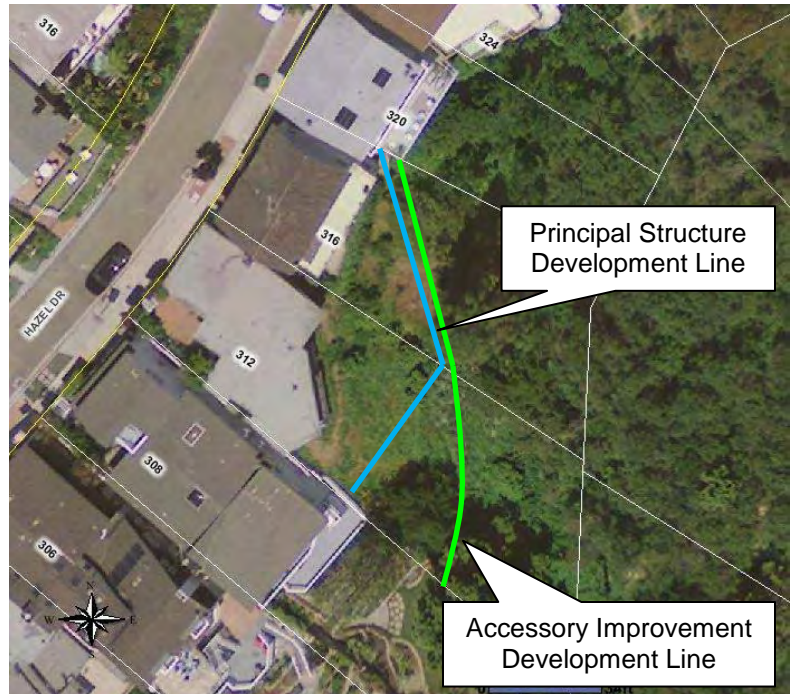


Figure 1. 2013 Community Development Director Determinations Based on Adjacent Structures

stringline was likewise established between the nearest adjacent corner of the deck line and retaining wall on 308 Hazel Drive and 316 Hazel Drive, respectively.

For 316 Hazel Drive, the principal structure stringline was identified at the location of the existing retaining wall. Since there are currently no accessory structures extending beyond the principal structures on either adjacent property, the accessory structure stringline was established as a parallel line to the principal structure development line eight feet farther out. This accessory structure line is in-line with the deck line at 320 Hazel Drive. This provides sufficient useable space for a deck or other accessory structures to extend out beyond the principal structure.

By comparison, Figure 2 depicts the lines associated with the approval of the two prior building permits. The building permit issued for 312 Hazel Drive was used to set a development line for future construction at 316 Hazel Drive.



**Figure 2. 2008/2009 Planning Director Determination
Based on Interim Criterion**

Modified Stringline

Upon further review of the General Plan and Coastal Land Use Policies, as well as existing conditions of the area, staff recommends a modification of the stringlines originally determined by the Community Development Director. The modified stringlines are drawn from existing development on either side of the combined sites (312 and 316 Hazel Drive). Staff feels that these stringlines, as identified in Figure 3 on the following page, are consistent with General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 in that they continue to apply a stringline method of analysis. The resulting stringlines closely follow the topographic contours, appear to follow the predominant pattern of development over this portion of Buck Gully, and stay free of jurisdictional delineations, thus protecting Buck Gully as a natural and visual resource. The modified stringlines would also offer more development area than that provided by the individual stringlines identified for each lot (Attachment Nos. 7 and 8), but they would not permit the extent of development previously permitted in 2009/2010 and sought by both appellants.

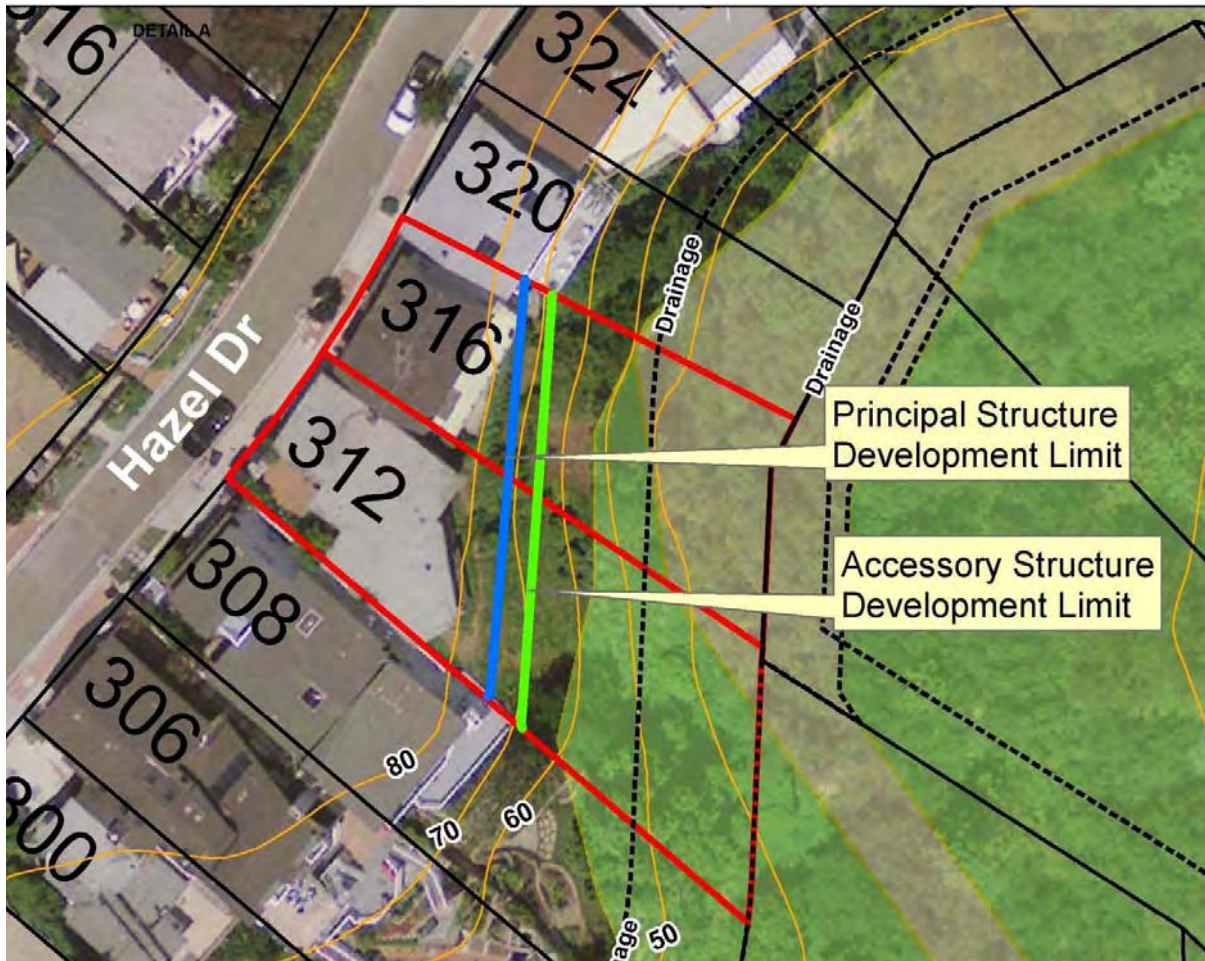


Figure 3.
Modified Stringline Recommendation

Appeals

The appellants have identified the following points in their appeals, provided as Attachment Nos. 9 and 10:

- a. They were not advised of the potential change of the development limits if the building permits were to expire.

Staff notes that the property owners were sent notices from the City regarding the impending expiration of permits due to construction inactivity. The notices were routine and did not indicate whether permits could be reissued in the future for the same development. Permits are issued based upon applicable regulations and policies in effect at the time of issuance so there is never a guarantee that permits once issued can be reissued as regulations change over time.

- b. The stringlines identified by staff provide a smaller building footprint and smaller future house when compared to what was previously permitted, resulting in a significant loss of future property value.

Staff acknowledges that a more restrictive development envelope would lead to a smaller building footprint that might not be valued as highly as a larger building. The previously issued permits were based on an interim criterion, which is no longer applicable.

- c. The cost associated with the preparation and processing of the previous plans and permits will be lost. Preparing and processing new plans for permitting will be costly.

The City is not obligated to issue permits allowing development to the extent previously permitted based upon the issuance of those prior permits or the cost to prepare the prior plans.

- d. Staff's determination using the stringline method is arbitrary, unnecessarily restrictive, and contrary to the previously established development limits.

Staff disagrees that the use of stringlines is arbitrary. The use of stringlines to regulate development is provided by General Plan and Coastal Land Use Plan policy and will be implemented until a PLOED is enacted by City ordinance or policy. In regards to the suggestion that property rights are being denied; staff disagrees. The lots on Hazel Drive along Buck Gully differ in size, shape, orientation, topography, and are developable based on these physical attributes. As a result of these physical attributes, the resulting building footprint may differ from the development pattern identified on other the portions of Buck Gully.

- e. The stringlines established by the Community Development Director deprive the owner of rights enjoyed by adjoining property owners.

Property owners have a right to develop their properties consistent with applicable land use regulations, and for both of these properties, development limits are influenced by the adjacent development.

Summary

The City is not obligated to permit development consistent with the previously issued permits, which were based on an interim criterion which is no longer in effect. Staff recommends the establishment of canyon development stringlines for each of the subject properties as shown in Figure 3, above.

Alternatives

The Planning Commission could:

1. Uphold the Community Development Director's original determinations, as shown in Attachment Nos. 7 and 8; or
2. Identify different stringlines for principal and accessory structures.

Environmental Review

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures). The Class 3 exemption includes the construction of one single-family residence. The subject appeals involve the potential for the future redevelopment of two existing single-family residences on two individual properties (one unit per property). The existing structures may be partially or fully demolished. Therefore, the proposed project qualifies for an exemption under Class 3.

Public Notice

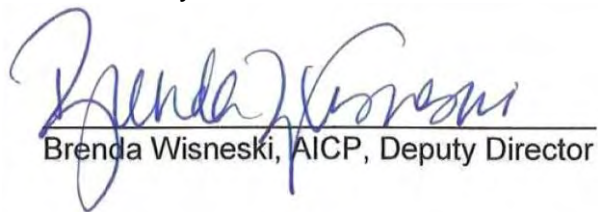
Notice of these appeals was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of both sites (excluding intervening rights-of-way and waterways) including the applicants, and posted on the subject properties at least 10 days prior to the meeting. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

A blue ink signature of Makana Nova, written in a cursive style, positioned above a horizontal line.

Makana Nova
Assistant Planner

Submitted by:

A blue ink signature of Brenda Wisneski, written in a cursive style, positioned above a horizontal line.

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution for 312 Hazel Drive
- PC 2 Draft Resolution for 316 Hazel Drive
- PC 3 Site Photos
- PC 4 Development Limit Determination for 312 Hazel Drive dated January 10, 2008
- PC 5 Original project plans for 312 Hazel Drive
- PC 6 Original project plans for 316 Hazel Drive
- PC 7 Development Limit Determination for 316 Hazel Drive dated February 7, 2013
- PC 8 Development Limit Determination for 312 Hazel Drive dated February 15, 2013
- PC 9 Appeal Application for 316 Hazel Drive
- PC 10 Appeal Application for 312 Hazel Drive

: 07/31/12

Attachment No. PC 1

Draft Resolution for 312 Hazel Drive

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH MODIFYING THE DECISION OF THE COMMUNITY DEVELOPMENT DIRECTOR ESTABLISHING CANYON DEVELOPMENT STRINGLINES PURSUANT TO GENERAL PLAN POLICY NR 23.6 AND COASTAL LAND USE PLAN POLICY 4.4.3-18 FOR 312 HAZEL DRIVE (PA2013-044)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On February 15, 2013, the Community Development Director identified canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan (CLUP) Policy 4.4.3-18 consisting of a primary structure stringline and an accessory improvements stringline for 312 Hazel Drive, and legally described as Lot 48, Block A, Tract 673.
2. An appeal of the Community Development Director's determination was filed by the property owner Diane Knight. The appeal requests the approval of canyon development stringlines similar to or identical to that shown on construction documents identified as Building Permit No. X2008-1618, which was issued on August 14, 2009, and expired on January 31, 2011, due to inactivity.
3. The development associated with Building Permit No. X2008-1618 was determined to be consistent with interim criteria created by Ordinance No. 2007-3, which is no longer in effect.
4. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element allowing the development of a single family residence on the property. The property is also located within Buck Gully and is subject to General Plan Policy NR23.6 (stated below) that provides development standards for the canyon.

"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements."

5. The property is designated Single Unit Residential Detached (RSD-B) by the Coastal Land Use Plan allowing the development of a single family residence on the property. Due to the location of the site within Buck Gully, development is subject to CLUP Policy 4.4.3-18 that provides canyon development standards identical to General Plan Policy

NR23.6. The subject property is located within the categorical exclusion area of the coastal zone.

6. The subject property is zoned R-1 (Single-Unit Residential) allowing the development and use of a single family residence.
7. A review of the goals and policies detailed in the General Plan and Coastal Land Use Plan, as well as the existing conditions, justifies modification of the Community Development Director's initial determination of the string line location, as shown in Exhibit A.
8. A public hearing was held on Wednesday, April 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting..

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The development of the site with one, single family residence is categorically exempt from the environmental review pursuant to Section 15303 of the Implementing Guidelines of the California Environmental Quality Act. This exemption covers the new construction or conversion of small structures including a limited number of single-family homes.

SECTION 3. REQUIRED FINDINGS.

Finding:

- A. *Development of the subject property to the extent proposed by the appellant does not conform to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.*

Facts in Support of Finding:

- A-1. No canyon development setback based upon a predominant line of existing development has been established pursuant to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18 for Buck Gully or the subject property.
- A-2. Development to the extent depicted on Building Permit No. X2008-1618 was based on Design Criterion No. 7 relating to landform alteration as established by Ordinance No. 2007-3, which is no longer in effect. Development to the extent depicted on Building Permit No. X2008-1618 would not fall within a development stringline drawn between existing development located on the adjacent properties (312 and 320 Hazel Drive) and would extend beyond said stringline.

Finding:

- B. *The development stringlines for principle structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.*

Facts in Support of Finding:

- B-1. In the absence of an established predominant line of development, the stringline method is utilized as prescribed in the policies to determine the appropriate development limit. As specified in the language of the policies, the principal structure and accessory improvement stringlines are drawn from existing development located on the adjacent properties. The principal structure stringline is drawn between the nearest adjacent foundation of the existing principle structures at 308 and 320 Hazel Drive. The accessory improvement stringline is drawn between the existing decks located on adjacent properties at 308 and 320 Hazel Drive.
- B-2. The subject property at 312 Hazel Drive occurs at a transition between a smaller and larger block in the development pattern along Hazel Drive. The consideration of 312 and 316 Hazel Drive together connects these two development patterns and follows the topography of the canyon to protect Buck Gully as a natural landform and visual resource per General Plan Goal NR23, "*Development respects natural landforms such as coastal bluffs.*"

Finding:

- C. *The canyon development stringlines for principal structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policies NR23.1 (Maintenance of Natural Topography) and NR23.7 (New Development Design and Siting).*

Facts in Support of Finding:

- C-1. The canyon development stringlines follow the topographic contours of Buck Gully at this location and would reflect the symmetry that occurs in the second block from 312 and 336 Hazel Drive where the drainage pattern curves inward toward Hazel Drive.
- C-2. The canyon development stringlines keep structures clear of drainage easements and California Coastal Commission and California Department of Fish and Wildlife jurisdictional delineations. Establishing development limits outside of these areas is appropriate to minimize alteration of the site's natural topography, minimize physical impacts to habitat areas, and facilitate permit processing for applicants.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby modifies the Community Development Director's decision and establishes canyon development stringlines for 312 Hazel Drive, subject to the figure set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF APRIL, 2013.

AYES:

NOES:

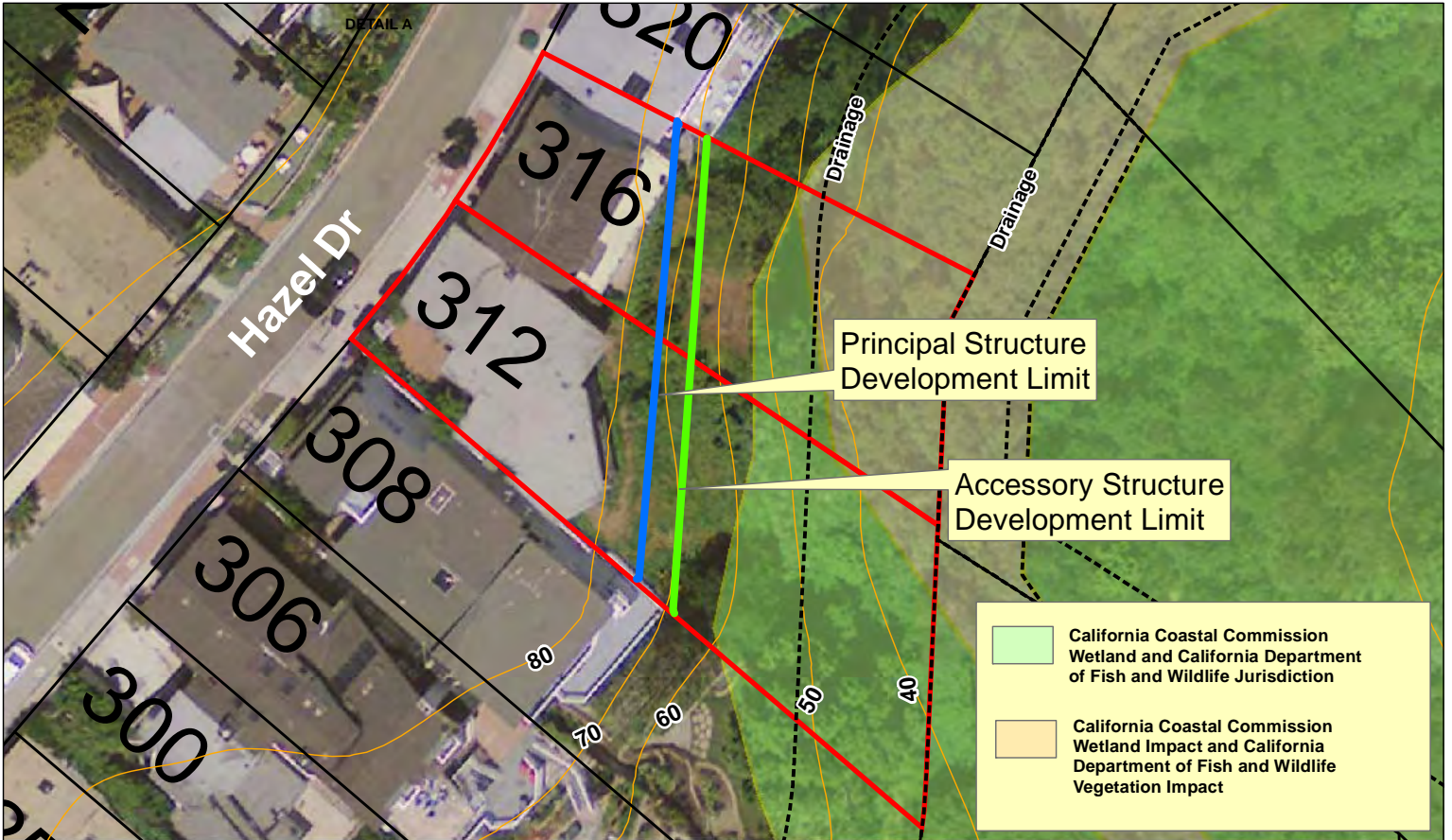
ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT "A"



312_Hazel_PLOED.mxd

Canyon Development Stringline
312 & 316 Hazel Drive



Attachment No. PC 2

Draft Resolution for 316 Hazel Drive

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH MODIFYING THE DECISION OF THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING CANYON DEVELOPMENT STRINGLINES PURSUANT TO GENERAL PLAN POLICY NR 23.6 AND COASTAL LAND USE PLAN POLICY 4.4.3-18 FOR 316 HAZEL DRIVE (PA2013-043)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On February 7, 2013, the Community Development Director identified canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan (CLUP) Policy 4.4.3-18 consisting of a primary structure stringline and an accessory improvements stringline for 316 Hazel Drive, and legally described as Lot 49, Block A, Tract 673.
2. An appeal of the Community Development Director's determination was filed by the property owner Honzen Ou. The appeal requests the approval of canyon development stringlines similar to or identical to that shown on construction documents identified as Building Permit No. X2009-0835, which was issued on May 24, 2010, and was cancelled on February 9, 2012, at the request of the applicant.
3. The development associated with Building Permit No. X2009-0835 was determined to be consistent with interim criteria created by Ordinance No. 2007-3, which is no longer in effect.
4. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element allowing the development of a single family residence on the property. The property is also located within Buck Gully and is subject to General Plan Policy NR23.6 (stated below) that provides development standards for the canyon:

"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements."
5. The property is designated Single Unit Residential Detached (RSD-B) by the Coastal Land Use Plan allowing the development of a single family residence on the property. Due to the location of the site within Buck Gully, development is subject to CLUP Policy 4.4.3-18 that provides canyon development standards identical to General Plan Policy

NR23.6. The subject property is located within the categorical exclusion area of the coastal zone.

6. The subject property is zoned R-1 (Single-Unit Residential), allowing the development and use of a single-family residence.
7. A review of the goals and policies detailed in the General Plan and Coastal Land Use Plan, as well as the existing conditions, justifies modification of the Community Development Director's initial determination of the stringline location, as shown in Exhibit A.
8. A public hearing was held on Wednesday, April 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The development of the site with a single family residence is categorically exempt from the environmental review pursuant to Section 15303 of the Implementing Guidelines of the California Environmental Quality Act. This exemption covers the new construction or conversion of small structures including one single-family home.

SECTION 3. FINDINGS.

Finding:

- A. *Development of the subject property to the extent proposed by the appellant does not conform to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.*

Facts in Support of Finding:

- A-1. No canyon development setback based upon a predominant line of existing development has been established pursuant to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18 for Buck Gully or the subject property.
- A-2. Development to the extent depicted on Building Permit No. X2009-0835 was based on Design Criterion No. 7 relating to landform alteration as established by Ordinance No. 2007-3, which is no longer in effect. Development to the extent depicted on Building Permit No. X2009-0835 would not fall within a development stringline drawn between existing development located on the adjacent properties (312 and 320 Hazel Drive) and would extend beyond said stringline.

Finding:

- B. *The development stringlines for principle structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.*

Facts in Support of Finding:

- B-1. In the absence of an established predominant line of development, the stringline method is utilized as prescribed in the policies to determine the appropriate development limit. As specified in the language of the policies, the principal structure and accessory improvement stringlines are drawn from existing development located on the adjacent properties. The principal structure stringline is drawn between the nearest adjacent foundation of the existing principle structures at 308 and 320 Hazel Drive. The accessory improvement stringline is drawn between the existing decks located on adjacent properties at 308 and 320 Hazel Drive.
- B-2. The subject property at 316 Hazel Drive occurs at a transition between a smaller and larger block in the development pattern along Hazel Drive. The consideration of 312 and 316 Hazel Drive together connects these two development patterns and follows the topography of the canyon to protect Buck Gully as a natural landform and visual resource per General Plan Goal NR23, "*Development respects natural landforms such as coastal bluffs.*"

Finding:

- C. *The canyon development stringlines for principal structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policies NR23.1 (Maintenance of Natural Topography) and NR23.7 (New Development Design and Siting).*

Facts in Support of Finding:

- C-1. The canyon development stringlines follow the topographic contours of Buck Gully at this location and would reflect the symmetry that occurs in the second block from 312 and 336 Hazel Drive where the drainage pattern curves inward toward Hazel Drive.
- C-2. The canyon development stringlines keep structures clear of drainage easements and California Coastal Commission and California Department of Fish and Wildlife jurisdictional delineations. Establishing development limits outside of these areas is appropriate to minimize alteration of the site's natural topography, minimize physical impacts to habitat areas, and facilitate permit processing for applicants.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby modifies the Community Development Director's decision and establishes canyon development stringlines for 316 Hazel Drive, subject to the figure set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF APRIL, 2013.

AYES:

NOES:

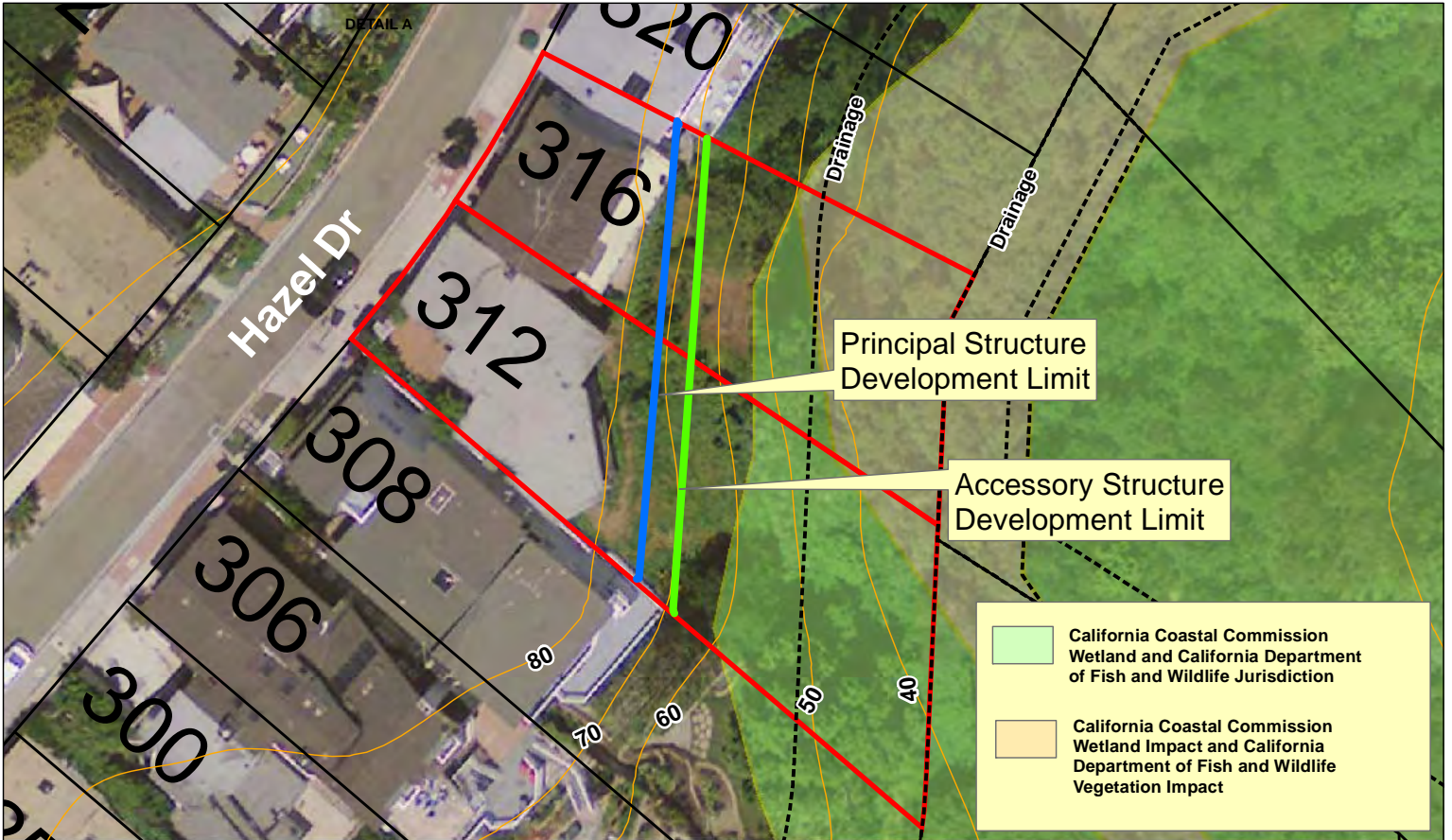
ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT "A"



312_Hazel_PLOED.mxd

Canyon Development Stringline
312 & 316 Hazel Drive

Attachment No. PC 3

Site Photos



View of adjacent development north from 312 Hazel Drive



View of Buck Gully vegetation and improvements from 312 Hazel Drive



View north up Bucky Gully from 312 Hazel Drive



View across Bucky Gully from 312 Hazel Drive



View south down Bucky Gully from 316 Hazel Drive



View south of 312 Hazel Drive from 316 Hazel Drive



View north up Bucky Gully from 316 Hazel Drive



View across Bucky Gully from 316 Hazel Drive



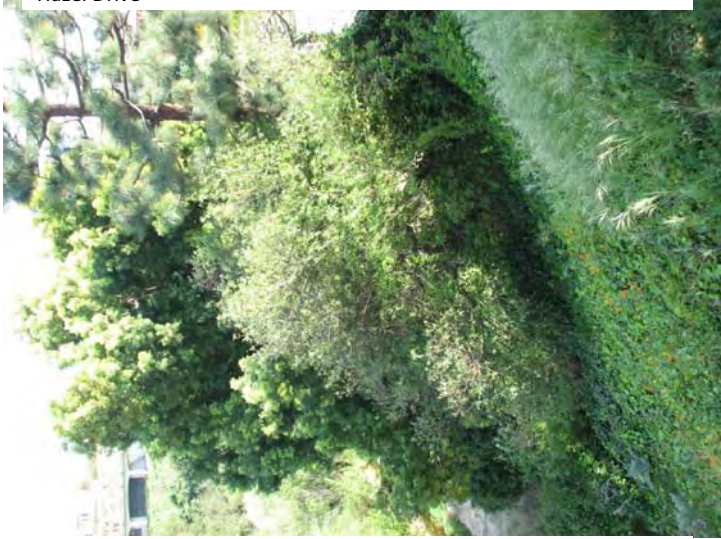
View of adjacent development north of 312 Hazel Drive



View of adjacent development south at 308 Hazel Drive from 312 Hazel Drive



View of adjacent development at 316 Hazel Drive from 312 Hazel Drive



View of slope below 312 Hazel Drive and adjacent to 308 Hazel Drive



View of adjacent development at 312 Hazel Drive from 316 Hazel Drive



View of adjacent development at 312 Hazel Drive from 316 Hazel Drive



View of adjacent development at 320 Hazel Drive from 316 Hazel Drive



View of adjacent development north from 316 Hazel Drive

Attachment No. PC 4

Development Limit Determination for
312 Hazel Drive dated January 10, 2008



CITY OF NEWPORT BEACH

PLANNING DEPARTMENT

January 10, 2008

Deborah M. Rosenthal
Bingham McCutchen LLP
600 Anton Boulevard | Suite 1800
Costa Mesa, CA 92626

RE: 312 Hazel Drive

Dear Ms. Rosenthal,

Thank you for your assistance in establishing development parameters for the proposed development at 312 Hazel Drive. As you know, Ordinance No. 2007-3 established procedures for the implementation of the General Plan during the interim period while the Zoning Code and other ordinances and regulations are being updated. Criterion No. 7 states:

Site planning should follow the basic principle of designing development to fit the features of the site rather than altering the site to fit the design of the development. Whenever possible, altering natural features such as cliffs, canyons, bluffs, significant rock outcroppings, natural vegetation should be avoided or the extent of alternation minimized. Adequate buffers should be provided to protect significant or rare biological resources.

After reviewing your exhibits, I have concluded that if the new principal structure does not extend beyond principal structure located at 308 Hazel Drive and steps down the slope as depicted in the simulation in your October 19, 2007 letter, the development will be consistent with Criterion No. 7. As for the proposed accessory structures, if these improvements are terraced as depicted in the simulation and do not extend further down the slope than the first terraced area on the 308 Hazel Drive property, which is within the 54-foot contour line, the development will be consistent with Criterion No. 7. The attached exhibit depicts the approximate line of development for the principal structure and for accessory structures.

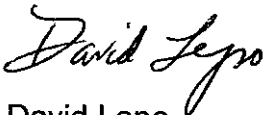
Please note that is for purposes of interpreting Criterion No. 7 of Ordinance No. 2007-3 only. This interim ordinance will expire when the new Zoning Code is adopted. New building permit applications will have to comply with the property development regulations contained in the new Zoning Code. At this time, it is estimated that the new Zoning Code will be adopted sometime around mid-year 2008.

312 Hazel Drive
January 10, 2008
Page 2 of 2

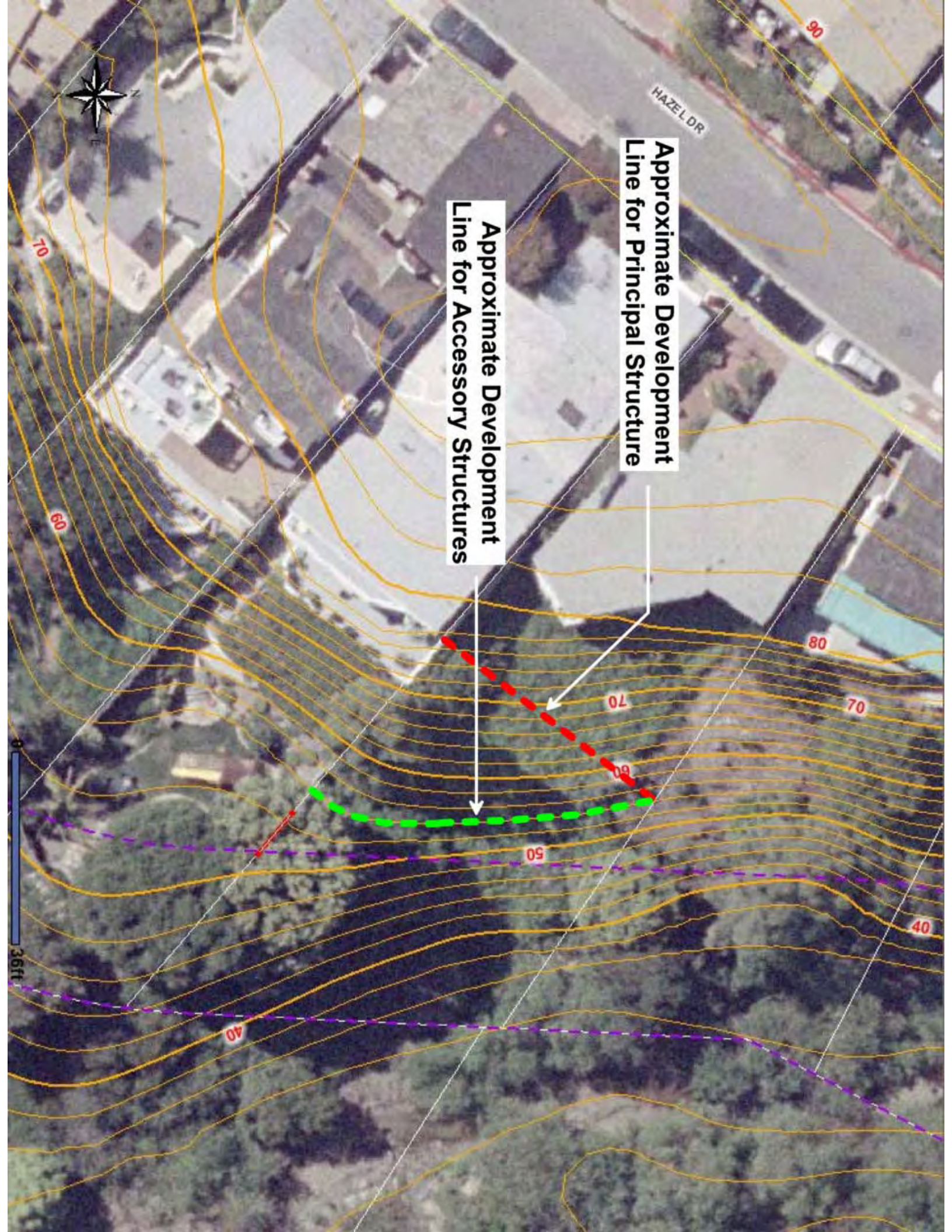
This interpretation was prompted by new direction provided to staff from members of the General Plan/LCP Implementation Committee. It involved policy issues other than those raised in your client's appeal. Therefore, I believe that it is appropriate to refund the \$600.00 filing fee, should your client choose to withdraw the appeal.

As to your request regarding compliance with other City requirements, our ability to perform an analysis was limited as we were only given a partial set of conceptual plans that were not drawn to scale. However, we did route the conceptual plans to other City departments for comments. Copies of their comments are attached and I hope that you find them useful.

Sincerely,

A handwritten signature in cursive script that reads "David Lepo".

David Lepo
Planning Director



Approximate Development Line for Principal Structure

Approximate Development Line for Accessory Structures

36ft

Attachment No. PC 5

Original project plans for 312 Hazel Drive

Inspections per Structural Engineer

SPEC. INSPECTOR IN QUALITY ASSURANCE PLAN

CONTRACTOR OR OWNER SHALL BE RESPONSIBLE FOR
PROVIDING SPECIAL INSPECTORS AND FOR THE SPECIAL
INSPECTOR REQUIREMENTS.

THE SPECIAL INSPECTOR SHALL BE OBTAINED BY THE
CONTRACTOR OR OWNER, AND SHALL BE SUBMITTED TO
THE CONTRACTOR AND AGENCY AS REQUIRED BY THE AGENCY.

STATEMENT OF SPECIAL INSPECTOR

THE SPECIAL INSPECTOR SHALL SUBMIT A STATEMENT OF
SPECIAL INSPECTION PREPARED BY THE
SPECIAL INSPECTOR. THE SPECIAL INSPECTOR SHALL BE RESPONSIBLE
CHARGE IN ACCORDANCE WITH SECTION 104.1 APPROXIMATE
104.1 IS A CONTRACTOR'S OBLIGATION TO THE AGENCY.
THIS STATEMENT SHALL BE IN ACCORDANCE WITH
SECTION 104.1

SPECIAL INSPECTION

1. THE SPECIAL INSPECTION OF THE CONTRACTOR, AGENCY OR
OWNER SHALL BE PROVIDED IN WRITING ACCORDING TO 104.1
CHAPTER 17. THE SPECIAL INSPECTOR SHALL OBTAIN THE RIGHT OF
ACCESS TO THE PROJECT AND SHALL BE PROVIDED WITH THE
SPECIAL INSPECTOR SHALL SEND REPORT TO THE OWNER, THE BUREAU
OF PUBLIC WORKS, AND THE AGENCY. THE SPECIAL INSPECTOR
SHALL BE PROVIDED WITH THE SPECIAL INSPECTOR SHALL
THE SPECIAL INSPECTOR SHALL SUBMIT A STATEMENT OF
SPECIAL INSPECTION. THE SPECIAL INSPECTOR SHALL BE
IN COMPLIANCE WITH THE AGENCY REQUIREMENTS AND APPROVED
BY THE AGENCY. THE SPECIAL INSPECTOR SHALL BE
OBTAINED FOR THE FOLLOWING WORK:

REQUIRED VERIFICATION AND INSPECTION OF WOLLS		
VERIFICATION AND INSPECTION	CONTINUING DURING TASK PERIOD	PERFORMED DURING TASK LAYERS
1. WELDING, BOLTING, ANCHORING AND OTHER ADJUSTMENTS OF COMPONENTS WITHIN THE ANCHORING AND BOLTING SYSTEM INCLUDING PYROWOOD SHEAR WALLS, RACE AND ROOF SHEETPIPING, SHIM SPACERS, BRACES AND WEDGELINES.	—	8
<p>CONDITION:</p> <p>SPROCKLE OPERATION IS NOT REQUIRED FOR PYROWOOD SHEAR WALLS, RACE & FLOOR SHEETPIPING CONTINUOUS DURING THE TOLERANCES ARE NOT LESS THAN 4" O.C.</p>		

[illegible][illegible]

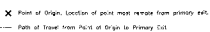
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LS architects
LAIDLAW SCHULTZ

Sobolewski Residence
312 Hazel Drive
Corona del Mar, CA 92625

general notes and information

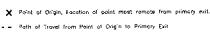
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Point of Origin to Primary Tail

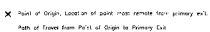
6	Roof Level
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Scale 1/8" = 1'-0"



Point of Origin to Primary Exit

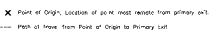
3	Lower Level
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 $\text{Scatter } 1/\bar{r}^2 = 1.07$ 

Hint of Orig's to Primary Exit

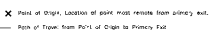
5	Upper Level
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Scale: 500' = 1"



Point of Origin to Primary Cell

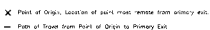
2	Basement Level
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$$\text{Scale: } 1\text{ cm} = 1\text{ m}$$


Point of Origin to Primary Exit

4	Street Level (LOCATION OF PRIMARY EXIT)
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Book 118 - 1-57



Point of Origin to Primary Exit

1	Pool Equipment Level
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Scale: 1/8" = 1'-0"

LS architects
LAIDLAW/SCHULTZ

Sobolewski Residence
312 Hazel Drive
Corona del Mar, CA 92625

Travel Distance to Primary Exit

DATE	GLASSBORO	BRIDGE	WILMINGTON
\$2.05 00	MR Plan Check 2		

Installation Manual

© 2010 SonarGuard, Inc.
11000 S. 10th Street, Suite 100, Chandler, AZ 85226
www.sonarguard.com

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Step 95: Mounting the Remote Keypad	100

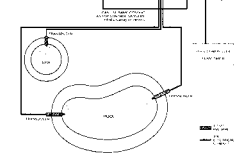
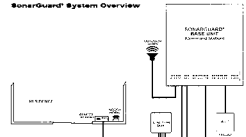
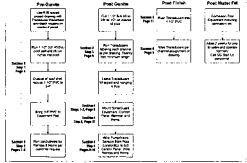
I. Introduction

The SonarGuard System is a non-invasive, non-toxic, and non-polluting method of detecting intruders in swimming pools. The system is designed to be installed in a pool's perimeter and will detect any object that enters the pool's perimeter. The system is designed to be installed in a pool's perimeter and will detect any object that enters the pool's perimeter.

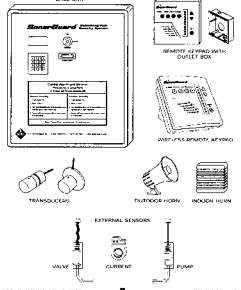
II. SonarGuard Components

The SonarGuard System consists of the following components:

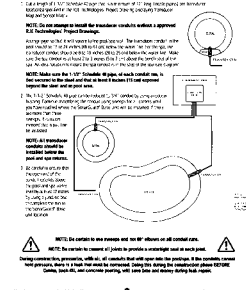
- Base Unit
- Remote Keypad
- Transducers
- External Sensors
- Pool Controller



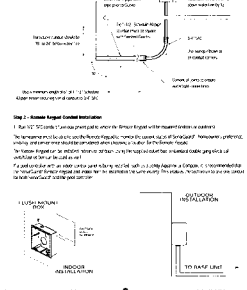
II. SonarGuard Components



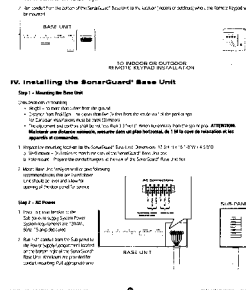
III. Transducer Remote Keypad Installation



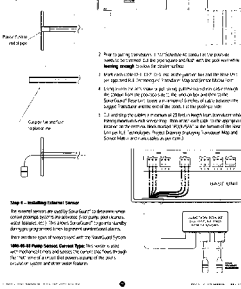
IV. Installing the SonarGuard Base Unit



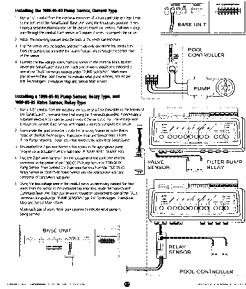
V. Installing Transducers During Heaters



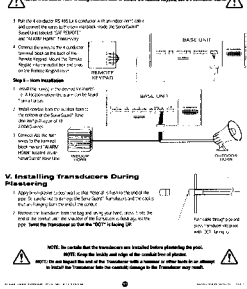
Step 1: Mounting the Base Unit



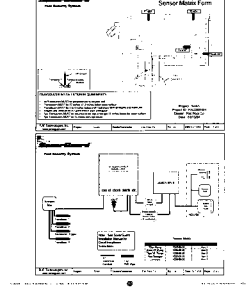
Step 2: Mounting the Remote Keypad



Step 3: Mounting the Transducers

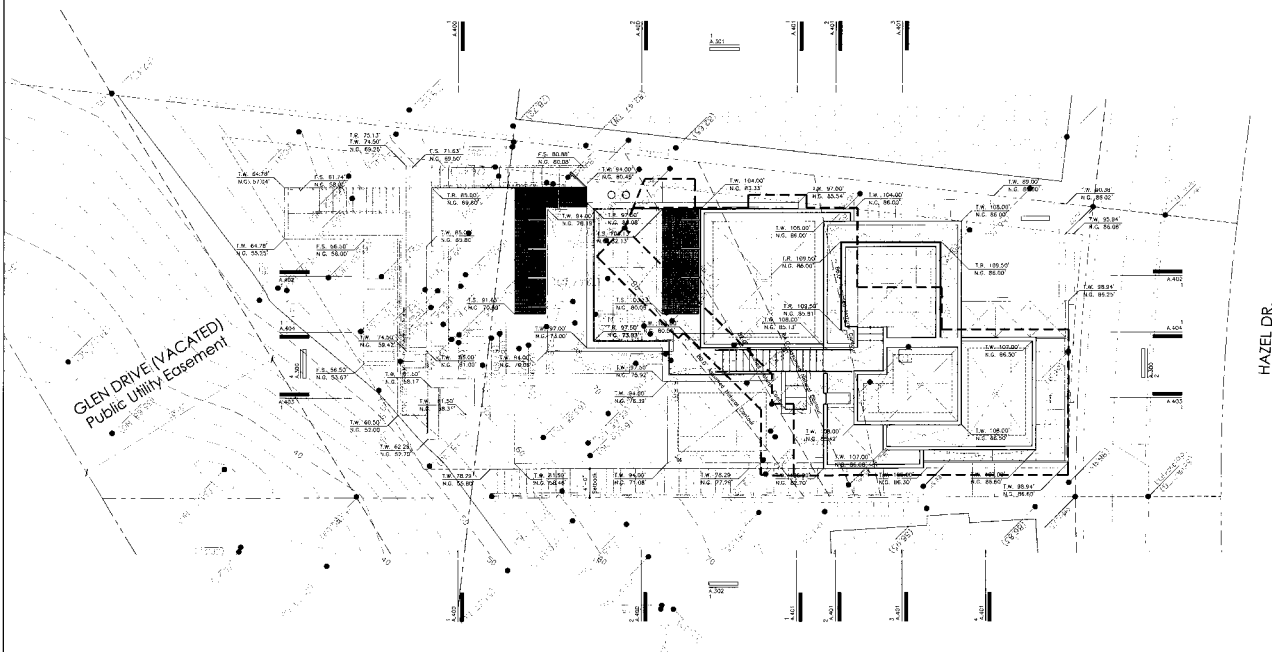


Step 4: Mounting the External Sensors



- Indicated area denotes structures on adjacent properties.
 T.S. 33.85' / N.G. 12.87' Denotes elevation of Top of Plumb and Natural Grade at specific point.
 T.S. 33.85' / N.G. 12.87' Denotes elevation of Top of Plumb and Natural Grade at specific point.
 T.S. 33.85' / N.G. 12.87' Denotes elevation of Top of Plumb and Natural Grade at specific point.

2 Plan Notes



1 Height Above Natural Grade Diagram

LSI architects
LINDSEY SCHULTZ

SOBOLEWSKI Residence
 312 Hazel Drive
 Corona del Mar, CA 92625

DATE: 04.08.09
 DRAWN BY: HB
 CHECKED BY: HB
 SCALE: 1/8" = 1'-0"



\mathcal{S}^{IK}

- *Note: Before an excavation, such as grade work, sewer work, utility work, etc., on or within water shall be tested before module. Provide backfill as required.

60X

1" Steel Wall @ Interior Wall's U.I.D.
 4" Steel Wall @ Exterior Walls
 Provide 1" HW Construction
 (See Specification Section on 4.202)
 Garage One Hour Wall, 3/4" Type
 V, 1/2" on garage side of wall,
 only to not flaming with rated
 joints.
 Stone Veneer,
 Board Formed Concrete Wall (Other Ground) or
 Retaining Wall (Other Ground) per Worksheet
 Note: Provide 8-11 inch Rock Insulation @ all
 interior walls, typ.

1. Full/Slender w/ Anti-Scaling Features Provide 1/2"
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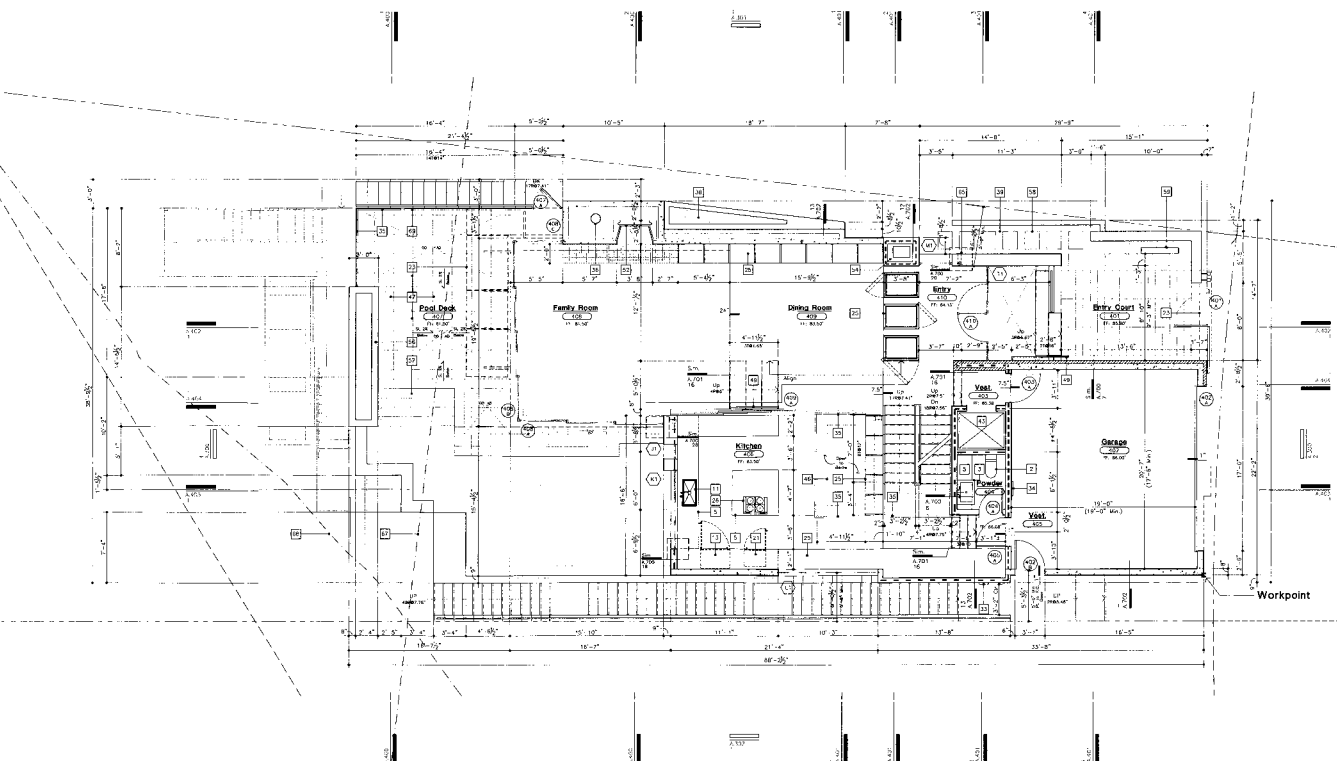
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Notes: Bathroom accessories, such as grab
 bars, toilet paper, towel racks, etc., as
 or a new wall shall be covered against
 moisture. Provide backing as required.
 Outside dimension are to face of finish
 grade/finish. Provide backing as
 dimension as a minimum. Other area
 work and other details noted. General
 building construction are to be governed
 by the minimum requirements.

2 Plan Notes



1 Street Level Floor Plan

LS architects
 LAIDLAW SCHULTZ

PROJECT
 Sobolewski Residence
 312 Hazel Drive
 Corona del Mar, CA 92625

Floor Plan

DATE: 07.22.08
 DRAWN BY: JKS/BA
 CHECKED BY: JKS/BA
 DATE: 08.08.08

A.203
 ARCHITECT
 10000 Wilshire Blvd., Suite 1000
 Los Angeles, CA 90024
 (310) 279-1000
 www.lsalph.com

4" Stud Wall @ Interior Walls U/I/O
 4" Stud Wall @ Exterior Walls
 Plyform 1/2" (or 3/4")
 No. 4 Rebar @ 12" o.c.
 Concrete Slab on 4" Joist
 1/2" (or 3/4") on grade side of slab
 Cast to meet existing with head
 joint
 Stone Veneer
 8" (or 10") Formed Concrete Wall (Mass Ground) or
 Retaining Wall (Slope Control) per Structure
 Note: Provide 4" x 12" min. Best location @ all
 interior w/l's, typ.

1. Sub/Drawer w/ Anti-Scratching Features: Provide 1/2"
 multi-chambered
 2. Hardware: 1/2" dia. w/ finish to meet Standards
 per the manufacturer's Submittal Data #12192
 w/ and 2" o.c. Conceal water supply
 3. Latching
 4. Dead Bolt
 5. Counterfeit
 6. Mirror
 7. Use Thrust w/ Anti-Scratching Features: Provide lock grille
 8. Shower Tray/Seat
 9. Removable Shower/Bathtub Seat
 10. Tub w/ Jetted Air/Water: Provide clear-out
 11. Kitchen Sink w/ Cabinet Fronted
 12. Dishwasher: Downward
 13. Refrigerator w/ Frost-Free Water/Freeze Below
 14. Electric Stove
 15. Dishwasher
 16. Utility Sink
 17. Fully Stacked A/C Condensate
 18. Refrigerator drawers

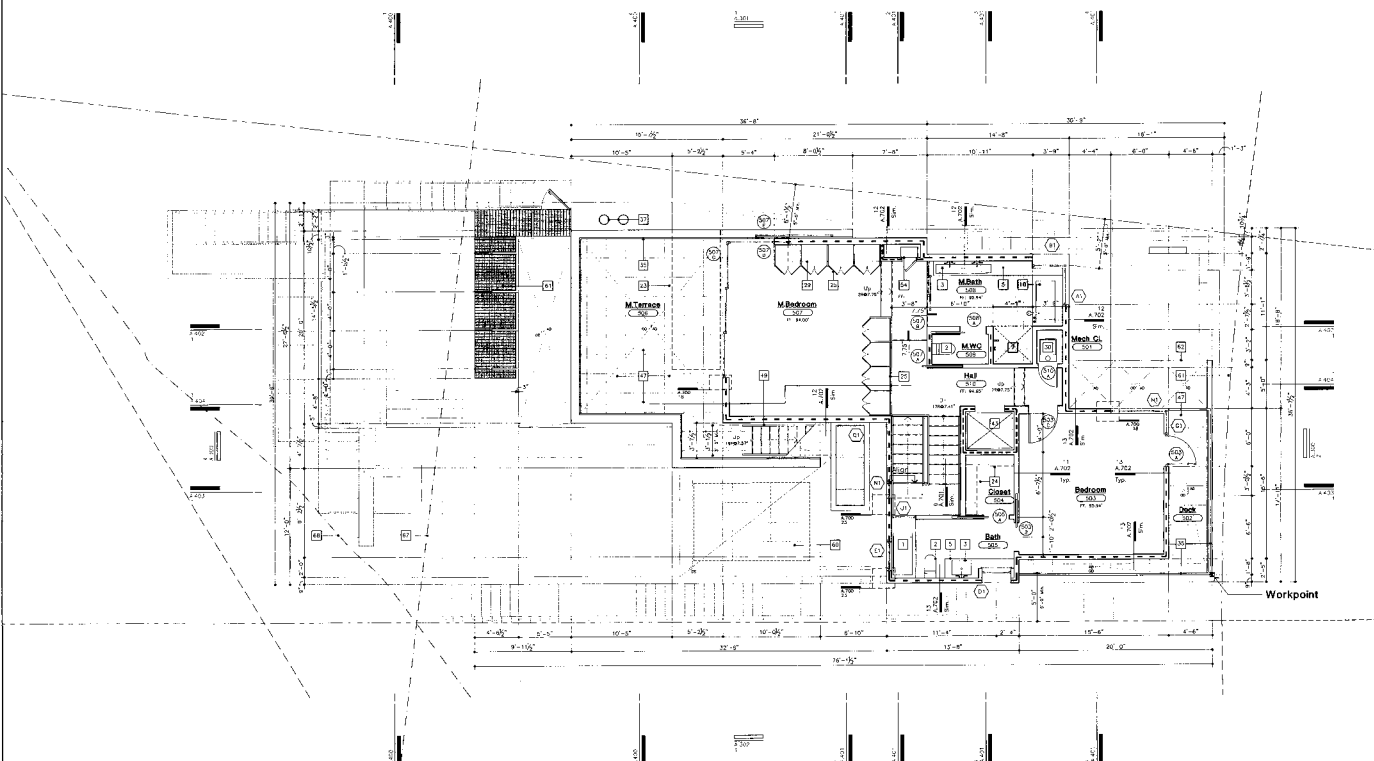
19. Undercounter Wine Cooler
 20. Microwave Oven
 21. Dishwasher Drain
 22. Line of entry above
 23. Hot and Cold and 1/2" Chrome Pipe Hiding rod
 24. Built-in Microwave
 25. A Built-in Electric Cooktop
 26. Built-in Sink
 27. Built-in Dish
 28. Line of Dishwasher Above
 29. Sink for Two Ice Chests
 30. Refrigeration: Stainless Steel Water Heater: Refer to "Ice"
 31. Refrigeration: Refer to the manufacturer's
 32. Water/Hot/Lowest Counting capacity: 1.5 gal.
 33. Built-in microwave oven
 34. Provide to service entry equipment w/ upper ground
 35. Refer to the manufacturer's Submittal Data for
 any w/ water or ventilation, and/or to the
 manufacturer's Submittal Data for the
 building area, for notes of service to waste
 of 1000 gpm

36. Sub-panel
 37. Junction: "42"
 38. Main Panel
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55. Casework Window Above
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*Note: Bathroom accessories, such as grab
 bars, towel bars, paper towels, etc., or
 as shown w/l's shall be tested against
 moisture. Provide quality as required.
 Outside dimension set to face of finish
 and structure. Minimum surface
 dimension set to a minimum of 1/2" (or 3/4")
 w/l's and other details 1/2" (or 3/4") (or 3/4")
 building dimensions are to be quoted
 by the architect and/or engineer.

2 Plan Notes



1 Upper Level Floor Plan

LS architects
 LINDA SCHULTZ

PROJECT
 Subolewski Residence
 312 Hazel Drive
 Corona del Mar, CA 92625

TRANSMITTAL

Floor Plans

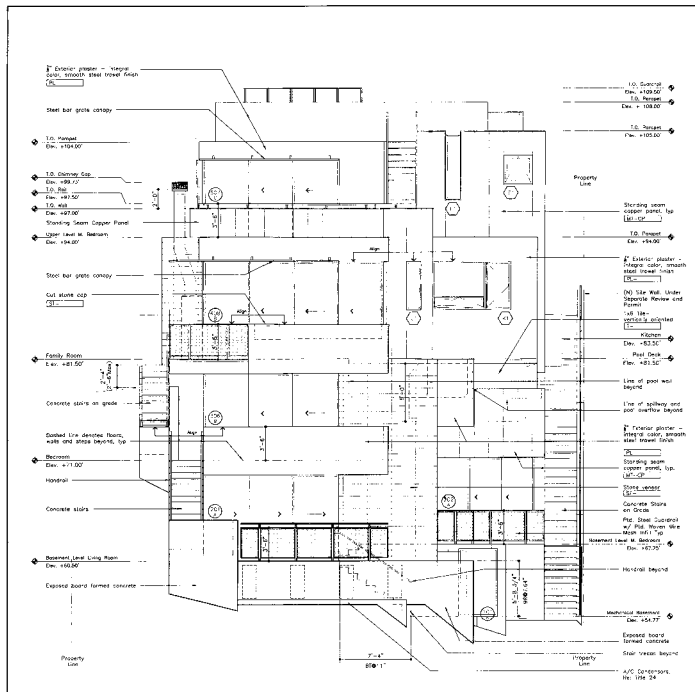
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 07.23.08
 03.03.09
 04.08.09

REVISIONS
 01 Plan Check OK/SA
 02 Plan Check OK
 03 Plan Check OK

A.204
 1/2" = 1'-0"

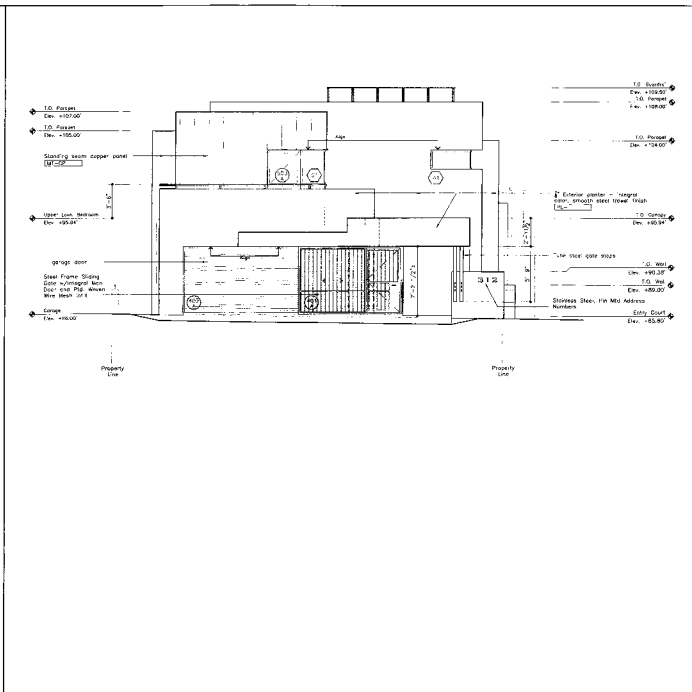
10

RE: A 100 per cent of Revised Elevations



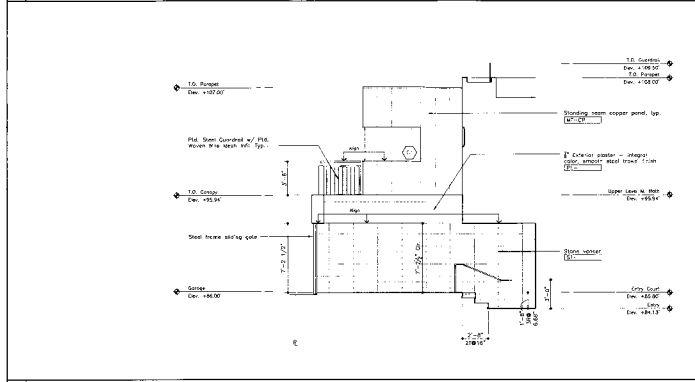
4 East Elevation

Scale 1/8" = 1'-0"



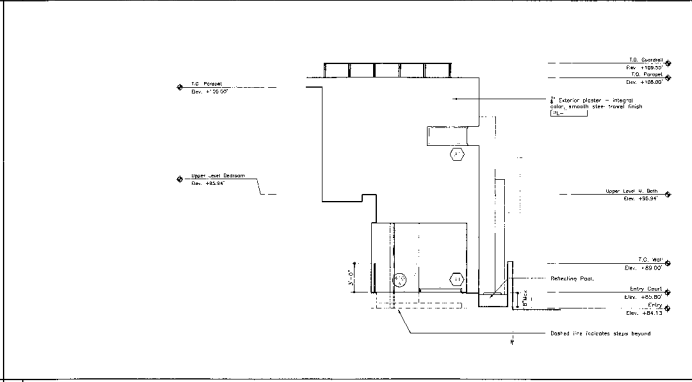
2 West Elevation

Scale 1/8" = 1'-0"



3 Southern Entry Court Elevation

Scale 1/8" = 1'-0"



1 Western Entry Court Elevation

Scale 1/8" = 1'-0"

LS architects
LAWRENCE SCHULTZ

PROJECT
Sobolewski Residence
312 Hazel Drive
Corona del Mar, CA 92626

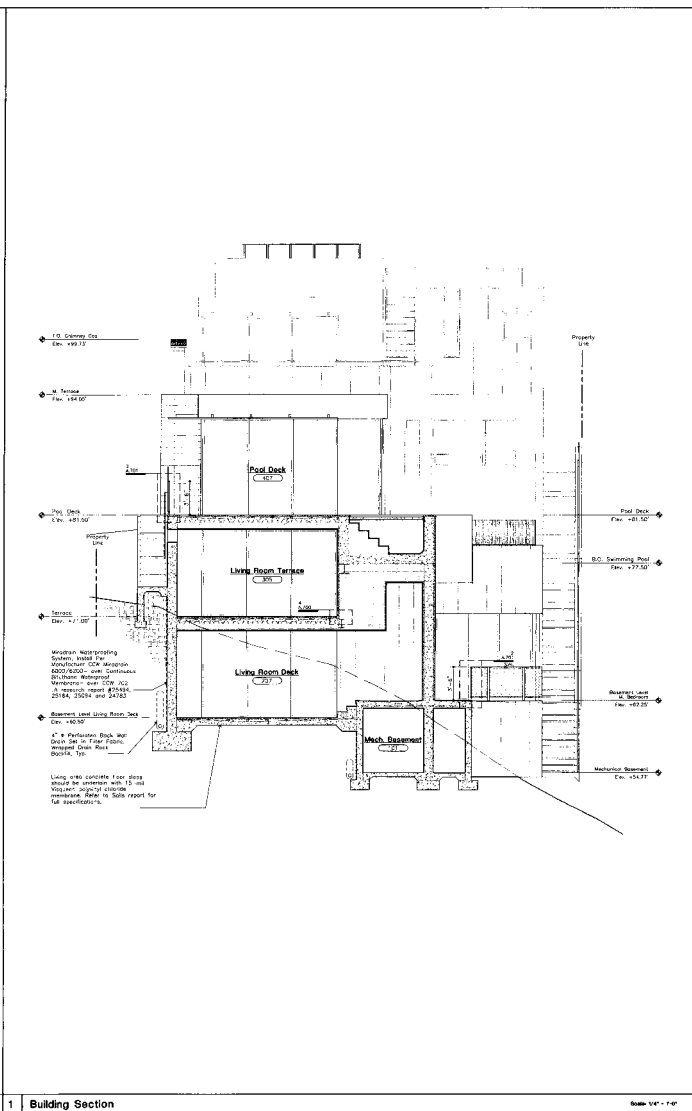
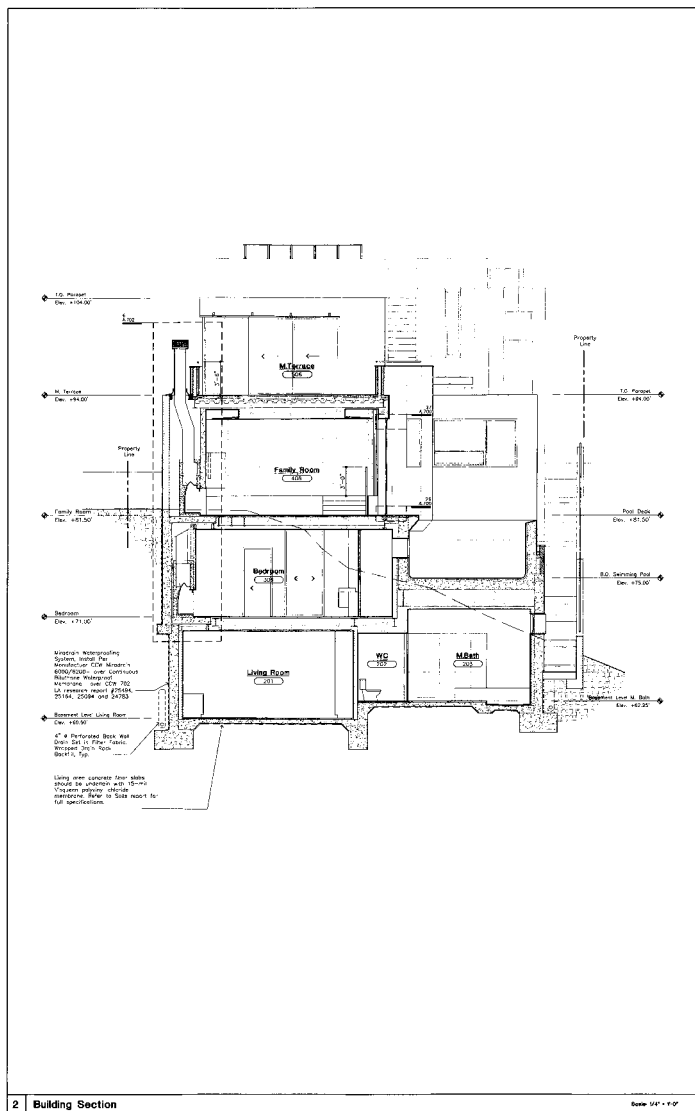
DATE
07.22.09
08.05.09
04.08.09

REVISIONS
1.0. Porch
1.0. Family Room
1.0. Kitchen
1.0. Dining Room
1.0. Living Room
1.0. Bedroom
1.0. Bathroom
1.0. Hallway
1.0. Staircase
1.0. Garage
1.0. Driveway
1.0. Property Line

REVISIONS
1.0. Porch
1.0. Family Room
1.0. Kitchen
1.0. Dining Room
1.0. Living Room
1.0. Bedroom
1.0. Bathroom
1.0. Hallway
1.0. Staircase
1.0. Garage
1.0. Driveway
1.0. Property Line

A.300
DATE
07.22.09
08.05.09
04.08.09

REVISIONS
1.0. Porch
1.0. Family Room
1.0. Kitchen
1.0. Dining Room
1.0. Living Room
1.0. Bedroom
1.0. Bathroom
1.0. Hallway
1.0. Staircase
1.0. Garage
1.0. Driveway
1.0. Property Line



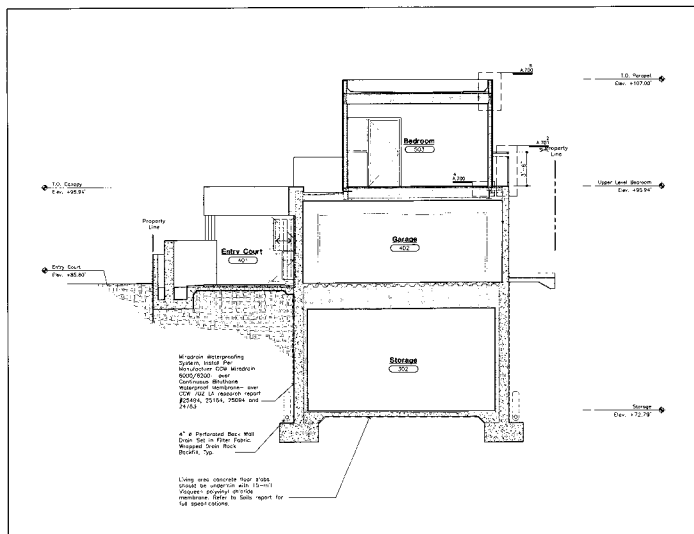
LS architects
LAUDAW SCHULTZ

Subolewski Residence
312 Hazel Drive
Corona del Mar, CA 92625

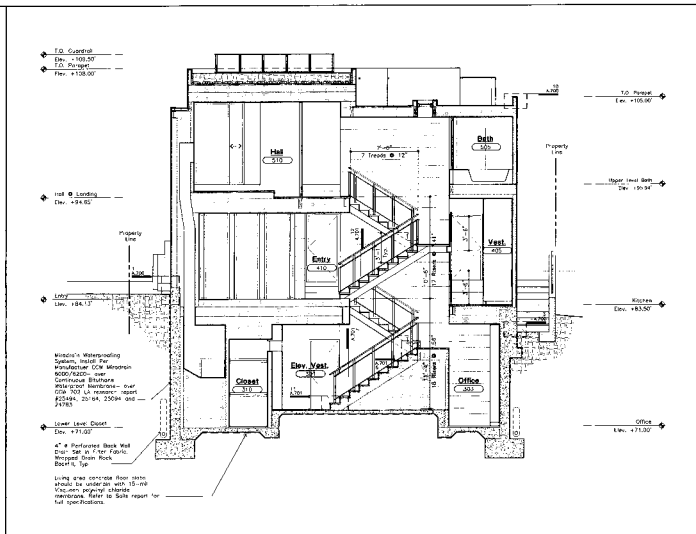
DATE: 07.25.08
BY: [Signature]
CHECKED: [Signature]
DATE: 08.08.08

NO Plan Check: DK/BA
NO Plan Check: J
NO Plan Check: J

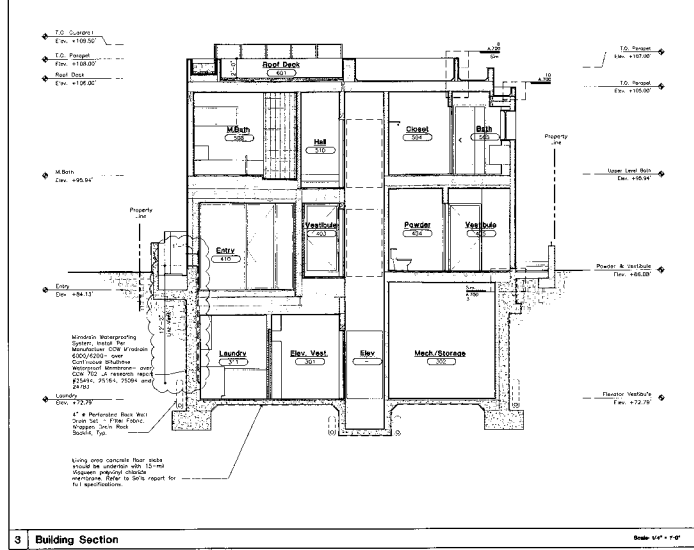




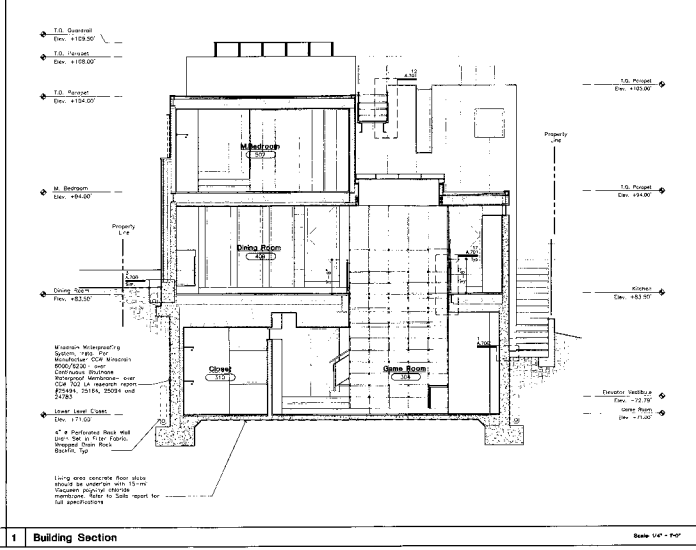
4 Building Section



2 Building Section



3 Building Section



1 Building Section

LS architects
LAIDLAW SCHULTZ

PROJ. 107
Sobolewski Residence
312 Hazel Drive
Corona del Mar, CA 92625

REVISIONS

DATE	REVISION	BY	CHK
07.20.08	NO Plan Check	OK/RA	CS
02.05.09	NO Plan Check 3		
04.08.09	NO Plan Check 3		
09.05.09	NO Plan Check 4		

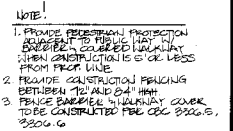




[illegible]

Attachment No. PC 6

Original project plans for 316 Hazel Drive



SITE 4AN
1/8 2/10/11

[illegible]

ARCHITECTURE
JAY S. CRAWFORD, AIA
470 WALD
949 453-9893
IRVINE, CA 92618
FAX 949 453-0895

**YOU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA.**

DRAWN

CHECKED

DATE

SCALE

1/2" = 1' 0"

JES NIS

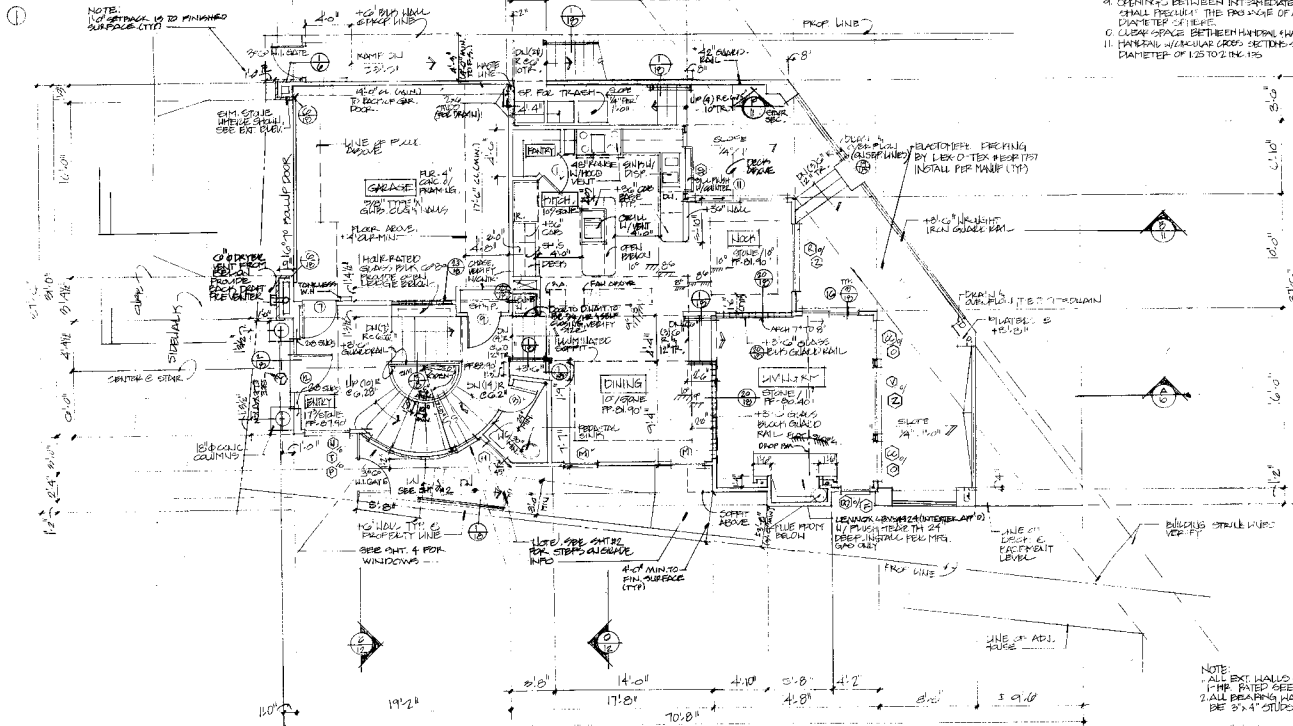
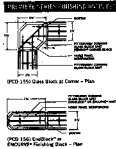
SHEET

1

SHEETS

May 21/15

SEE SHT #17 & 20110 FOR
ADD'L SPECIFICATIONS
TYPICAL CONSTRUCTION DETAILS



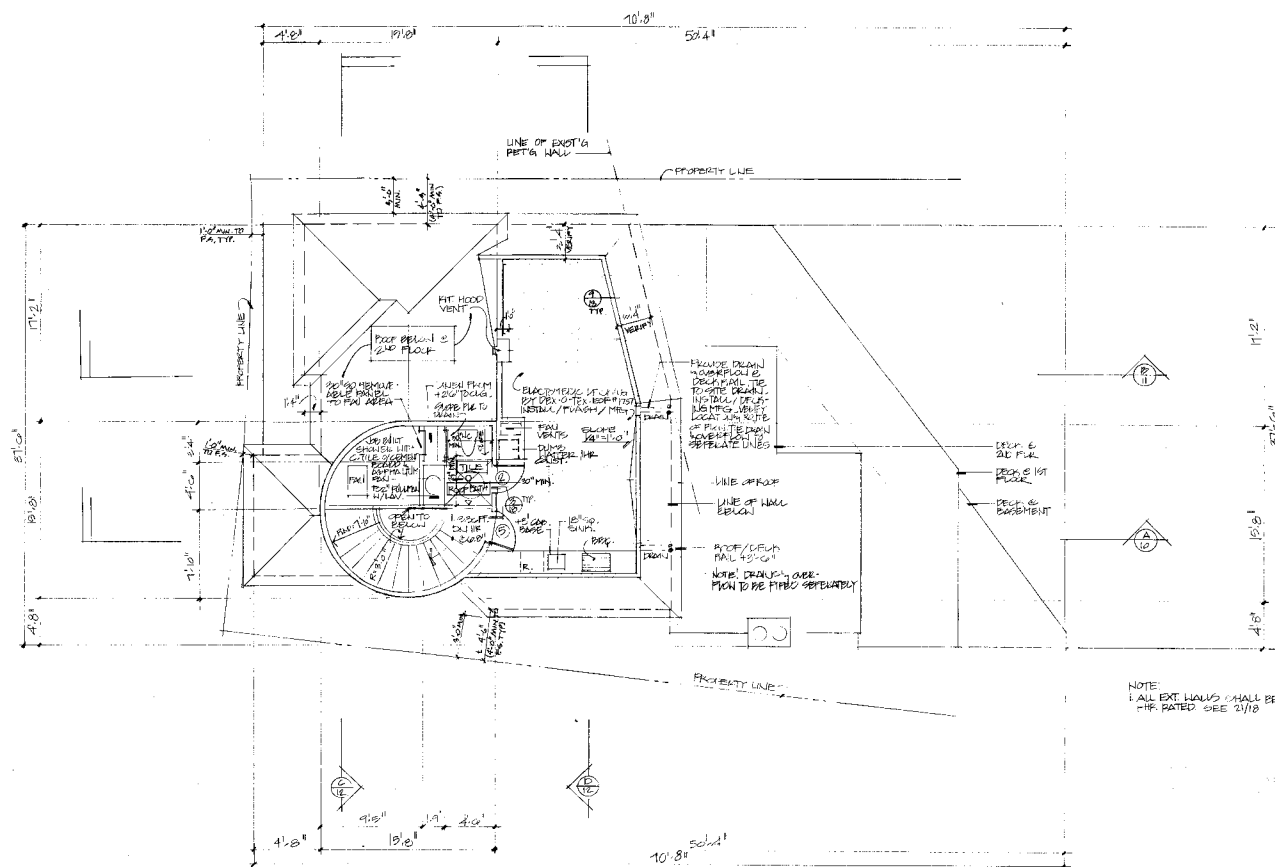
- NOTES:
1. PROVIDE A MIN. OF ONE (1) CONTINUOUS HANDRAIL (MINIMUM HEIGHT SHALL BE 34" TO 38" INCHES ABOVE THE FINISHING OF TREADS).
 2. OPENINGS BETWEEN INTERMEDIATE BALUSTERS ON THE OPEN SIDE OF STAIRS SHALL PRECLUDE THE PASSAGE OF A 36" DIAMETER SPHERE.
 3. THE TRIANGULAR OPENING FORMED ON THE POWER TREAD AND BOTTOM RAIL SHALL PRECLUDE THE PASSAGE OF A 36" DIAMETER SPHERE.
 4. HANDRAILS WITH INTERMEDIATE BALUSTERS SHALL HAVE PERIMETER LATCHES OF 4" TO 6" INCHES W/ A MAX. OPENING SECTION OF 1.5" IN CHORD.
 5. HANDRAIL SHALL BE CONTINUOUS W/OUT INTERRUPTION BY NIBEL POST ON OTHER DESTRUCTION EXCEPT AT THE LANDING & ROUTE OF TURNOUT ON LUNGSOT TREAD. FRANKET OR BALUSTERS ATTACHED TO THE BOTTOM RAIL OF A STAIRWAY SHALL NOT PROJECT BEYOND EDGE OF HANDRAIL.
 6. PROVIDE GUARDS WHERE THE OPEN SIDE IS MORE THAN 30" ABOVE THE FLOOR OR GRADE LEVEL.
 7. GUARD HEIGHT SHALL BE A MIN OF 42".
 8. OPENINGS BETWEEN INTERMEDIATE BALUSTERS SHALL PRECLUDE THE PASSAGE OF A 36" DIAMETER SPHERE.
 9. CLEAR SPACE BETWEEN HANDRAILS SHALL BE 18" MIN.
 10. HANDRAIL W/ CONTINUOUS SECTION SHALL HAVE A DIAMETER OF 1.5" TO 2" IN 155.

REVISIONS	BY

ARCHITECTURE
JAY S. CRAWFORD, AIA
470 WARD
949 453-9983

OU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA.

DRAWN	
CHECKED	
DATE	
SCALE	1/8" = 1'-0"
SHEET NO.	
3	



NOTE:
ALL EXT. WALLS SHALL BE
FIR RATED SEE 2/1/8

REFER TO SHEET #2
FOR BOOK & WINDOW
SCHEDULES

THIRD FLOOR

THIRD FLOOR PLAN

REVISION	BY

ARCHITECTURE
JAY S. CRAWFORD, AIA
470 WALD
945 453-9862
EVANSTON, CA 92018
FAX 945 453-9865

OU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA.

DRAWN
CHECKED
DATE
BY
JOB NO.
SHEET
5
PAGES

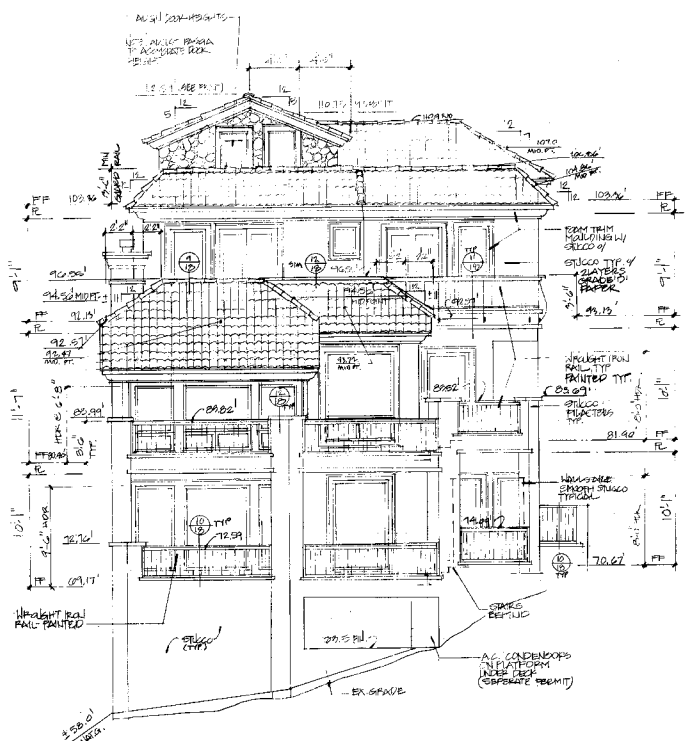
REVISION	BY

ARCHITECTURE
JAY S. CRAWFORD, AIA
IRVINE, CA 92618
470 WALD
949 453-0993
FAX 949 453-0993

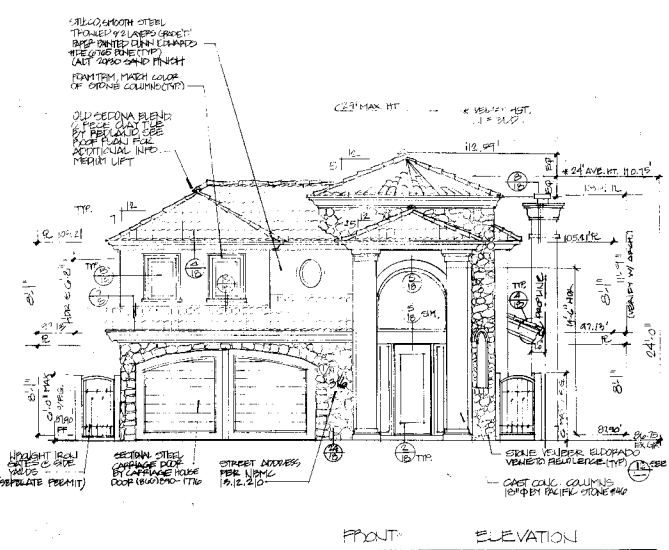
OU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA.

DATE	SCALE	SHEET
10/11/01	1/8" = 1'-0"	6

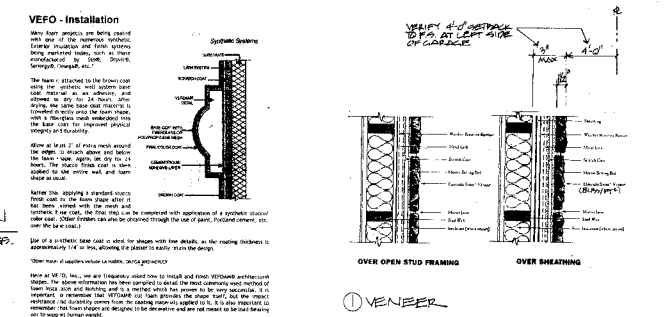
6



REAR ELEVATION
REAR PORCH
REAR WALL

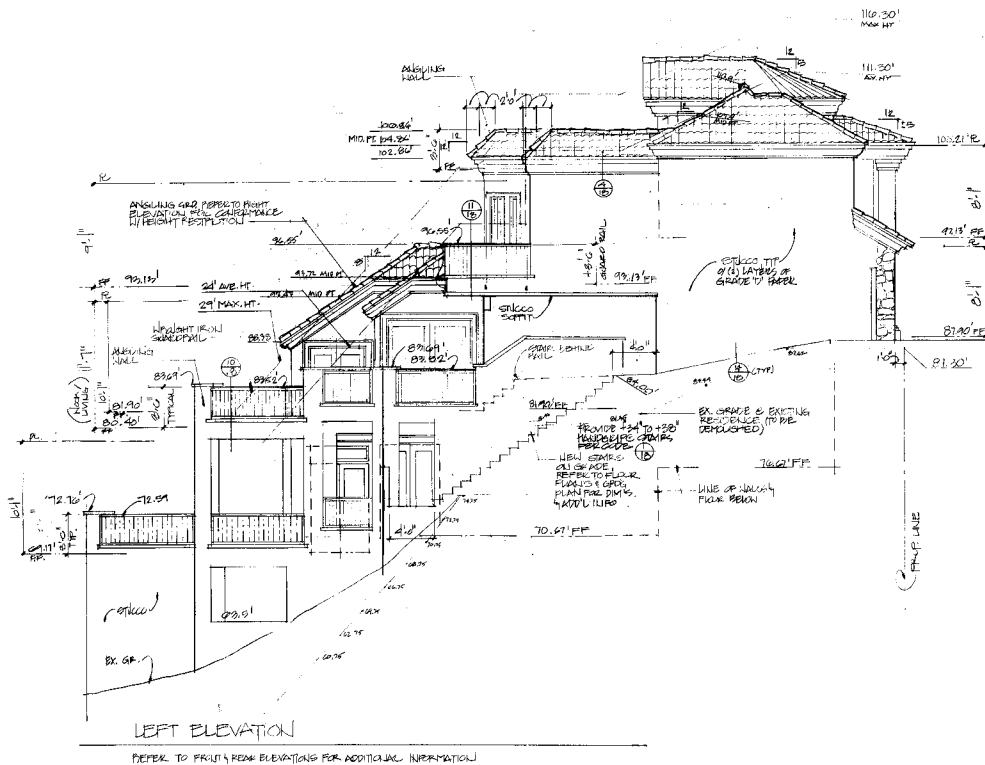


FRONT ELEVATION
FRONT PORCH
FRONT WALL



VERO - Installation
VERO SYSTEM
VERO OVER OPEN STUD FRAMING

EXTERNAL ELEVATIONS



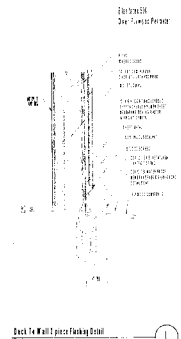
REVISIONS	BY

ARCHITECTURE
JAY S. CRAWFORD, AIA
IRVINE CA 92608
410 WALD
949 453-9893

OU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA.

DATE	BY

8

[illegible]

ARCHITECTURE
JAY S. CRAWFORD, AIA
470 WALD
249 453-9893
IRVINE, CA 92618
FAX 949 453-9895

YOU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA.

DRAWN _____
CHECKED _____
DATE _____
SCALE 1/4" = 1'-0"
JOB NO. _____
SHEET
10
OF
SHEETS

DOOR SCHEDULE

SYMBOL	SIZE	DESCRIPTION
1	24"0"	INTERIOR
2	24"6"	G.G. EXTERIOR (1/8" MIN)
3	24"7 1/2"	INTERIOR
4	24"8"	"
5	24"8"	EXT. PERMANENT GLASS (1/8" MIN)
6	24"8"	"
7	24"8"	INT. 1/8" THK G.G. (PERMANENT W/ 1/8" MIN)
8	3" 7"	INTERIOR
9	5'0"8"	EXTERIOR - TEMPERED GLASS
10	5'0"8"	"
11	6'0"8"	CAMPO - 2"0"8" ENTRY W/1/8"8" SIDE LITE (1/8" MIN)
12	6'0"8"	MIRROR GLASS DOOR
13	8'0"8"	"
14	8'0"8"	INTERIOR
15	8'0"8"	EXTERIOR - TEMP GL

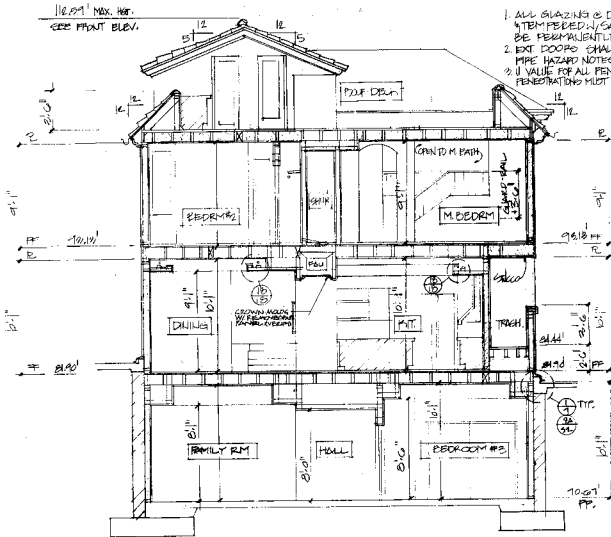
NOTES:

1. ALL GLAZING & DOOR TO BE DUAL, WHITE, 1/8" TEMPERED, SAFETY GLAZING - LABEL TO BE PERMANENTLY ETCHED.
2. EXT. DOORS SHALL BE FIRE RESISTIVE PER FIRE HAZARD NOTED ON PROJECT DATA SHEET.
3. I VALUE FOR ALL PENETRATIONS IS 2"0"8". PENETRATIONS MUST HAVE TYP. PERMANENT LABELS.

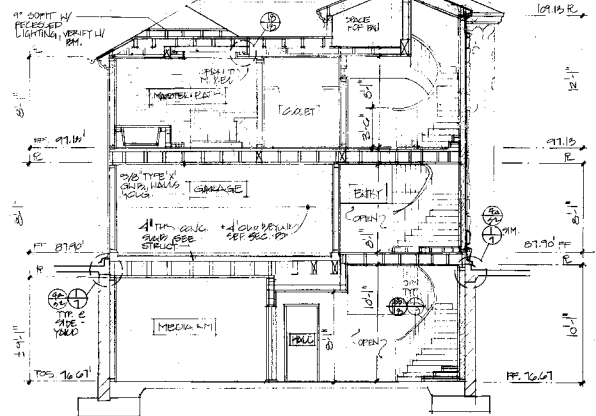
WINDOW SCHEDULE

SYMBOL	SIZE	DESCRIPTION
1	24"0"	OVER - FIXED
2	24"0"	ROUND TOP - FIXED (1/8" TEMP. GLASS)
3	24"0"	CASEMENT
4	24"0"	AWNING
5	24"0"	"
6	24"0"	CASEMENT
7	24"0"	"
8	24"0"	FIXED
9	24"0"	AWNING
10	24"0"	FIXED
11	24"0"	"
12	24"0"	AWNING
13	24"0"	FIXED
14	24"0"	"
15	24"0"	GREEN HOUSE WINDOW W/ GLASS
16	24"0"	FIXED
17	24"0"	ROUND TOP - FIXED
18	24"0"	CASEMENT
19	24"0"	1/2" ROUND DECORATIVE AWNING
20	24"0"	FIXED
21	24"0"	"
22	24"0"	"
23	24"0"	"
24	24"0"	"
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26	24"0"	"
27	24"0"	"
28	24"0"	"
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37	24"0"	"
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39	24"0"	"
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96	24"0"	"
97	24"0"	"
98	24"0"	"
99	24"0"	"
100	24"0"	"

NOTES:
1. WINDOWS TO BE METAL CLAD OVER HOOD W/ DUAL 1/8" GLAZING TEMPERED GLASS TO HAVE SAFETY LABEL PERMANENTLY ETCHED (MIN. OF 1 TEMP. GLASS PER FIRE OPD).



SECTION D' THROUGH DINING & KITCHEN



SECTION E' THROUGH GARAGE

REFERS TO SECTION 'A' FOR ADDITIONAL INFORMATION

REVISION	BY

ARCHITECTURE
JAY S. CRAWFORD, AIA
316 HAZEL DR.
CORONA DEL MAR, CA
92626
TEL: 949-453-1983
FAX: 949-453-1985

OU RESIDENCE
316 HAZEL DR.
CORONA DEL MAR, CA

DATE
12/15/01
JOB NO.
12
SHEET
12

Attachment No. PC 7

Development Limit Determination for
316 Hazel Drive dated February 7, 2013



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

February 7, 2013

Honzen Ou
2229 Indian Creek Drive
Diamond Bar, CA 91765

Re: Predominant Lines of Existing Development
316 Hazel Drive, Corona del Mar

Dear Mr. Ou,

This letter is in response to your request for clarification of development limits for future construction located at 316 Hazel Drive. Development of the property is subject to the General Plan, Coastal Land Use Plan, Zoning Code, and Municipal Codes (including the locally adopted Building and Fire Codes) in effect as of the time permits are issued. General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 specify:

"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements." (Emphasis added)

Implementation of this policy is based upon development at the time a building permit is issued. It is a flexible policy that is dependent on the current circumstances of the property and adjacent development.

Permits for the abutting lot at 312 Hazel Drive (Plan Check No. 1511-2008) were issued on August 17, 2009, and subsequently expired on January 31, 2011.

As you know, in 2009, construction plans were submitted and approved for a new single-family residence at the subject property, 316 Hazel Drive (Plan Check No. 0641-2009). The permit was issued on May 24, 2010, based upon the existing development pattern and the building permit issued for 312 Hazel Drive. The building permit

Predominant Lines of Existing Development
316 Hazel Drive, Corona del Mar
February 7, 2013

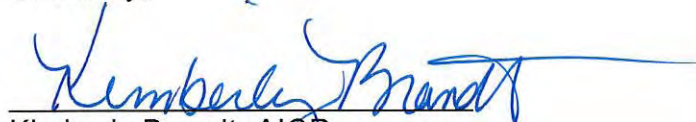
associated with 316 Hazel Drive is no longer valid because it was cancelled as of February 9, 2012.

Given that the development of 312 Hazel Drive was not implemented and permits for that project are no longer valid, we can no longer use that development pattern to identify stringlines for permits today or in the future unless the development pattern changes in the future. I have reviewed the plans that you provided for 316 Hazel Drive and determined that the stringlines depicted are not consistent with the policies cited above.

Since conditions have changed and the expired and cancelled permits are no longer applicable, staff must identify the predominant lines of existing development (stringlines) based upon the existing structures, which are shown in the attached exhibit. As noted above, the stringlines may be reevaluated at a later date if the development pattern of adjacent properties changes in the future.

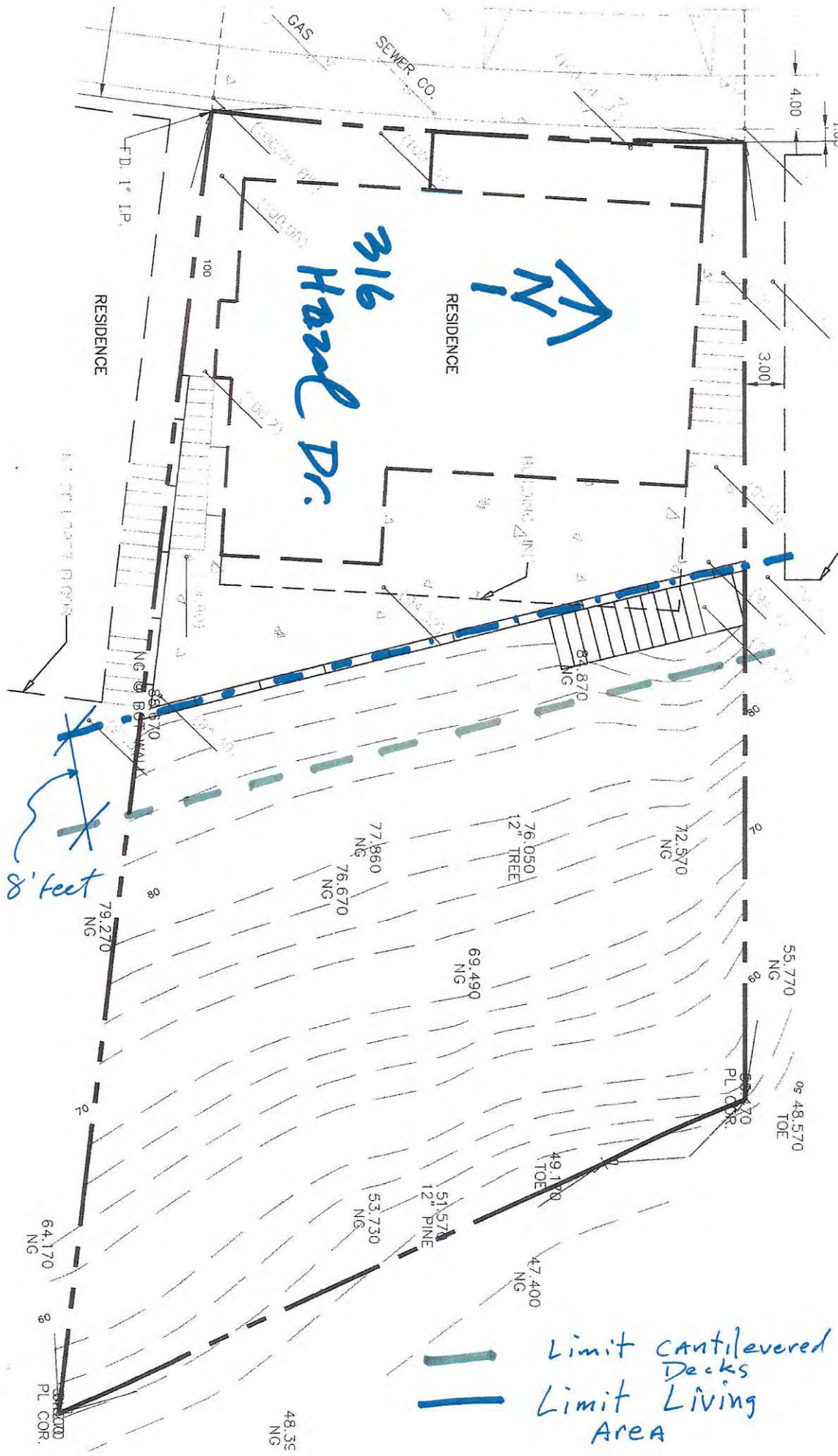
If you disagree with the determination provided in this letter, you may file an appeal to have this matter reviewed by the Planning Commission. Appeals must be filed with the Community Development Department within fourteen (14) days following the date of this letter (by **February 21, 2013**) and the current fee for processing is \$4,466.00. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200. If you have any questions about this matter, please do not hesitate to contact Makana Nova, Assistant Planner at mnova@newportbeachca.gov or (949) 644-3249.

Sincerely,



Kimberly Brandt, AICP
Community Development Director
Attachments:

Development limit exhibit
Appeal form





Appeal Application

Community Development Department
Planning Division
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3204 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

For Office Use Only

Date Appeal Filed: _____

Fee Received: _____

Received by: _____

Application to appeal the decision of the: ☐ Zoning Administrator
☐ Planning Director
☐ Hearing Officer

Appellant Information:

Name(s): _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____ Email: _____

Appealing Application Regarding:

Name of Applicant: _____ Date of Decision: _____

Project No. (PA): _____ Activity No.: _____

Site Address: _____

Description: _____

Reason(s) for Appeal (attach a separate sheet if necessary): _____

Along with application, please submit the following:

- Twelve (12) 11x17 sets of the project plans
- One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.

Signature of Appellant: _____ Date: _____

Attachment No. PC 8

Development Limit Determination for
312 Hazel Drive dated February 15, 2013



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

February 15, 2013

David Wood
17 Corporate Plaza Drive, Suite 200
Newport Beach, Ca 92660

Re: Predominant Lines of Existing Development
312 Hazel Drive, Corona del Mar

Dear Mr. Wood,

This letter is in response to your request for clarification of development limits for future construction located at 312 Hazel Drive. Development of the property is subject to the General Plan, Coastal Land Use Plan, Zoning Code, and Municipal Codes (including the locally adopted Building and Fire Codes) in effect as of the time permits are issued. General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 specify:

“Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements.” (Emphasis added)

Implementation of this policy is based upon development at the time a building permit is issued. It is a flexible policy that is dependent on the current circumstances of the property and adjacent development.

As you know, in 2009, construction plans were submitted and approved for a new single-family residence at the subject property, 312 Hazel Drive (Plan Check No. 1511-2008). Permits were issued on August 17, 2009, and subsequently expired on January 31, 2011.

Staff has reviewed the topographic survey for 312 Hazel Drive and determined that the stringlines used for Plan Check No. 1511-2008 are not consistent with the policies cited

Predominant Lines of Existing Development
312 Hazel Drive, Corona del Mar
February 15, 2013

above. Based upon the survey, staff has identified the predominant lines of existing development (stringlines) based upon the existing structures, which are shown in the attached exhibit. The stringlines may be reevaluated at a later date if the development pattern of adjacent properties changes in the future.

If you disagree with the determination provided in this letter, you may file an appeal to have this matter reviewed by the Planning Commission. Appeals must be filed with the Community Development Department within fourteen (14) days following the date of this letter (by **March 1, 2013**) and the current fee for processing is \$4,466.00. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200. If you have any questions about this matter, please do not hesitate to contact Makana Nova, Assistant Planner at mnova@newportbeachca.gov or (949) 644-3249.

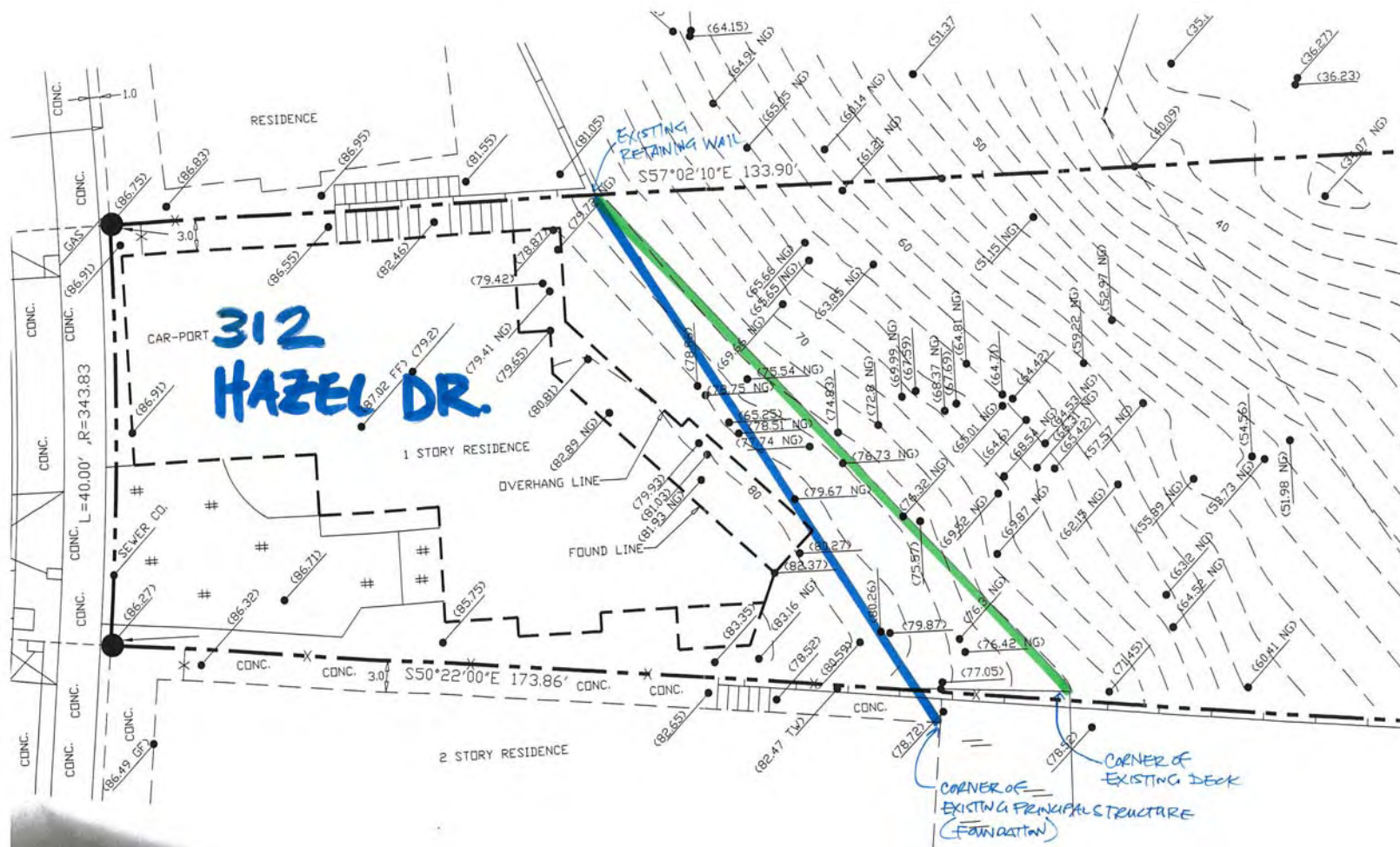
Sincerely,



Kimberly Brandt, AICP
Community Development Director
Attachments:

Development limit exhibit
Appeal form

Cc:
Property owner
Diane Knight
312 Hazel Drive
Corona del Mar, CA 92625





Appeal Application

Community Development Department
Planning Division
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3204 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

For Office Use Only

Date Appeal Filed: _____

Fee Received: _____

Received by: _____

Application to appeal the decision of the:

☐ Zoning Administrator
☐ Planning Director
☐ Hearing Officer

Appellant Information:

Name(s): _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____ Email: _____

Appealing Application Regarding:

Name of Applicant: _____ Date of Decision: _____

Project No. (PA): _____ Activity No.: _____

Site Address: _____

Description: _____

Reason(s) for Appeal (attach a separate sheet if necessary): _____

Along with application, please submit the following:

- Twelve (12) 11x17 sets of the project plans
- One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.

Signature of Appellant: _____ **Date:** _____

Attachment No. PC 9

Appeal Application for 316 Hazel Drive



Appeal Application

Community Development Department
Planning Division

3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3204 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

For Office Use Only

Date Appeal Filed: 2/25/13

Fee Received: 2/25/13

Received by: R. MAY

RECEIVED BY

COMMUNITY

FEB 25 2013

Application to appeal the decision of the:

- ☐ Zoning Administrator
☒ Planning Director
☐ Hearing Officer

Appellant Information:

Name(s): HONZEN OU
Address: 2229 INDIAN CREEK ROAD
City/State/Zip: DIAMOND BAR CA 91765
Phone: (909) 573-9611 Fax: _____ Email: 218 ROSWELL@GMAIL.COM
(9616)

Appealing Application Regarding:

Name of Applicant: HONZEN OU Date of Decision: 2-20-2013
Project No. (PA): PLAN CREEK # 0641-2009 Activity No.: _____
Site Address: 316 HAZEL DR CDM NEWPORT BEACH
Description: PREDOMINANT LINES OF EXISTING
DEVELOPMENT OF 316 HAZEL DR CDM,
DISAGREEMENT WITH THE STAFF DETERMINATION

Reason(s) for Appeal (attach a separate sheet if necessary): _____

PLEASE SEE ATTACHED

Along with application, please submit the following:

- Twelve (12) 11x17 sets of the project plans
- One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.

Signature of Appellant: [Signature] Date: 2-20-2013

Appeal Application

Plan check # 0641-2009

Applicant: Honzen Ou

Site address: 316 Hazel Dr. Corona del Mar

Reasons for appeal:

- 1) In the meeting with Ms. Makana Nova and Mr. James Campbell on February 7, 2012, I was informed that my house can no longer use the original stringline because the stringline was based on the approved permit of house, 312 Hazel and the permit of the house has expired.

The construction plan of my house started the end of 2008. Mr. Jay Crawford, my architect, was given by planning department a hypothetical stringline based on a proposed construction plan (not in the permit stage yet) of the house at 312 Hazel and the adjacent house of my neighbor 320 Hazel. A construction plan of 3,904 sq. ft. of my house was then filed for plan check on May 11, 2009, 3 months before the permit of the house 312 Hazel approved on August 17, 2009. So, technically, the construction plan of my house is based on a proposed stringline that is drawn and approved by the planning department and has nothing to do with the permit of 312 Hazel, whether it is current or not. This hypothetical stringline still does exist. I believe the permit of 312 Hazel would be granted if the owner resubmits the plan since nothing has changed in construction code up to now.

- 2) For economical reason, I left my permit of my house expired on February 9, 2012 with an impression that I would be granted the same stringline and footage of 3,904 sq. ft. if I resubmit it later. Nobody from the planning department has indicated to me that I would lose both established stringline and footage. Should I was advised of above, I would have built the house then and not to suffer from a big financial loss.
- 3) Based on the letter from Ms. Kimberly Brandt dated February 7, 2013, a new stringline was drawn and my house would be planned at 2,800 sq. ft., 1,100 sq. ft. less than the original plan. According to recent sales of houses in Corona del Mar, the average price is \$928.08 per sq. ft. The planning cost of expired permit and new plan of 2,800 sq. ft. would be \$200,000. My total loss would be more than \$1,200,000. This is a bit harsh to a responsible resident who has been paying a lot tax to the city faithfully.

Your consideration of granting me of original plan is highly appreciated!

Honzen Ou

February 13, 2013

Attachment No. PC 10

Appeal Application for 312 Hazel Drive



Appeal Application

Community Development Department
Planning Division
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3204 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

For Office Use Only

Date Appeal Filed: 02-28-2013

Fee Received: _____

Received by: _____

Application to appeal the decision of the: ☐ Zoning Administrator
☐ Planning Director
☐ Hearing Officer

Appellant Information:

Name(s): Diane Knight
Address: 312 Hazel Drive
City/State/Zip: Corona Del Mar, CA 92625
Phone: 714.337.0288 Fax: 949.515.4608 Email: diane@line-up.com

Appealing Application Regarding:

Name of Applicant: Diane Knight Date of Decision: 2-15-13
Project No. (PA): PA2013-043 Activity No.: _____
Site Address: 312 Hazel Dr CDM CA
Description: Joining appeal with Mr Ou - (316 Hazel Dr)

Reason(s) for Appeal (attach a separate sheet if necessary): _____

justification on separate sheet

Along with application, please submit the following:

- Twelve (12) 11x17 sets of the project plans
- One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.

Signature of Appellant: Diane Knight Date: 2-28-13

Knight Appeal

“Staff’s determination of the predominant lines of existing development is arbitrary, unnecessarily restrictive, and contrary to the previously established predominant lines of existing development. Among other things, the development setback established by the Planning Director: (1) is inconsistent with the definition of “predominant line of development” adopted by the City; (2) is inconsistent with the predominant line of development previously applied to the property; (3) deprives the property owner of rights enjoyed by adjoining property owners; and (4) arbitrarily restricts development of the Knight property based solely on the size of a single adjacent structure.”

March 19, 2013

File Number: 35HF-176794

VIA E-MAIL AND FEDEX

Planning Commission
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Appeal of Stringline Determination for 312 Hazel Drive, Corona del Mar (Knight Appeal)

Dear Planning Commissioners:

On behalf of Diane Knight, this letter appeals the Stringline Determination for 312 Hazel Drive issued by the Planning Director on February 15, 2013. The lot under appeal (the "Lot") is located on lower Buck Gully south of Pacific Coast Highway in Corona del Mar. Knight0001 Under General Plan Policy NR 23.6 and Coastal Land Use Plan Policy 4.4.3-18, the City is required to establish a "predominant line of existing development" for new structures on Buck Gully. The Planning Director previously established primary and accessory "lines of development" for this Lot on January 10, 2008; this appeal requests reinstatement of those lines in accordance with approved building plans.

Background

The property was purchased by the Knight-Sobelewski family ("Knight") in 2003. In June 2007, the Planning Department imposed a diagonal Stringline at or about the rear setback of the existing house, based on the corners of the immediately adjacent structures. The family appealed this decision to the Planning Commission ("2007 Appeal"). A copy of the 2007 Appeal is attached as Knight0002-34. Before the hearing, the Planning Director identified a primary "line of development" at the same rear setback as the adjacent house to the south, and an accessory "line of development" on a diagonal along the 54' contour. A copy of the Planning Director's 2008 Determination is attached as Knight0049-59.

The Knights accepted the Planning Director Determination, withdrew the 2007 Appeal and completed building plans. A building permit was issued for a new, larger home (the "Project") in 2009, but expired in 2011 after Mr. Sobelewski became terminally ill. He died in July 2012 and Ms. Knight has listed the home for sale. Plans for the home are attached as Knight0010-15 (Exhibit 1 to the 2007 Appeal). Potential buyers have requested reinstatement of the building permit as a condition of purchase.

In the original 2007 Appeal, the Knights requested establishment of a "predominant line of existing development" for Buck Gully in accordance with the General Plan and CLUP. They identified two possible predominant lines, based on the rear setbacks of a representative block of surrounding structures. The first "predominant line" was a primary setback based on the rear line of the 10 adjacent homes on lots with similar developable acreage, excluding lots with severe topography not present on the Lot. The alternate predominant line was a single line based on the rear line of all statutorily-defined development, including accessory structures, of the 15 adjacent homes. Both of the proposed lines attempted to avoid creating non-conforming structures. Using a structure-by-structure stringline, for instance, makes more than half of the existing homes non-conforming. A graphic study showing the effect of a stringline is attached as Knight0048.

At the same time, the City's General Plan/LCP Implementation Committee considered establishment of a predominant line of development along Buck Gully south of PCH. A map showing proposed 100' Development Areas along Buck Gully from the April 15, 2009 Committee Meeting is attached as Knight0042-43. The draft Committee Development Areas were similar, but somewhat larger than the Knight proposals for a predominant line. The Committee did not finalize a predominant line of development in 2009, but decided to defer adoption until preparation of the Implementation Plan.

In the absence of an adopted predominant line in 2007, the Planning Director determined primary and accessory development lines for the Lot that complied with all potential development setbacks. In making this Determination, the Planning Director also recognized site-specific factors affecting the Lot, including topography and a 32' or 120% variance in setbacks between the nearest points on adjacent structures. After consulting with the General Plan/LCP Implementation Committee, the Planning Director found the Project consistent with the site planning principles of Criterion No. 7 of Ordinance No. 2007-3 and the setback direction of the Committee. Knight0051-52.

Unfortunately, Mr. Sobelewski died before the home could be built. In response to an inquiry about reinstating the expired building permit in February 2013, the Planning Director applied the same diagonal Stringline challenged in the 2007 Appeal. The Stringline does not allow construction of the home approved in 2008 in reliance on the previous Planning Director Determination. This second appeal followed ("2013 Appeal"). Knight0035-37.

There have been no changes in the relevant sections of the General Plan, CLUP or Zoning Code since 2008 when the building permit was issued for 312 Hazel Drive. The "predominant line of existing development" policy was adopted by the City in 2005 and has not been modified since that time. The City and the Coastal Commission have both acknowledged on numerous occasions that the policy is intended to be applied in a flexible manner, with due regard for site-specific factors and development rights.

Ms. Knight cannot proceed with sale of her property unless the Planning Commission establishes a predominant line of development for the Lot. The line of development applied by the Planning Director in resolving the 2007 Appeal is consistent with existing policy and

procedures, and will allow the sale to go forward. This 2013 Appeal should be granted and the previously-approved development lines shown at Knight0037 reinstated.

City Policies Require Application Of A Predominant Line of Development, Not A Stringline

General Plan Policy NR 23.6 (Canyon Development Standards) and CLUP Policy 4.4.3-18 (Natural Landform Protection) state:

Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements. (Emphasis added.)

Under the express language of the Canyon Development Policies, therefore, the City is required to establish and apply canyon setbacks based on the predominant line of development. A stringline is not a substitute for establishment of a predominant line, but a method of preventing construction beyond the predominant line.

The required setback is based on the predominant line of development for a representative group of homes along lower Hazel Drive. The Glossary defines "predominant line of development" as:

The most common or representative distance from a specified group of structures to a specified point or line (e.g. topographic line or geographic feature). For example, the predominant line of development for a block of homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).

The Glossary defines "development" as "the placement or erection of any solid material or structure; ... construction, reconstruction, demolition, or alteration of the size of any structure ...". The City typically considers development to include any structure requiring a building permit in the Coastal Zone, including decks, pools and retaining walls.

At the time of adoption, Coastal Commission Staff explained that the purpose of Policy 4.4.3 was to impose an overall "predominant line of development" along blocks of homes. After discussing application of the new predominant line of development standard to coastal bluffs in suggested modifications to the 2005 CLUP Update, the Staff Report stated:

Coastal canyon development will be regulated in much the same way. Where there was previously no setback for development on canyon lots, there is now a requirement to comply with the "predominant line of development." Suggested

Modification 134 provides this new standard for development along Buck Gully and Morning Canyon. The addition of a canyon setback regulation in these areas will prevent significant landform alternation and limit encroachment into natural habitats." Suggested Modifications, p. 80, NPB-MAJ-1-04, October 13, 2005 (Item Th 8d). An excerpt of the Coastal Commission Staff Report is attached as Knight0044.

The City accepted the Commission modifications, including Policy 4.4.3-18, in December 2005. In conversations with City Staff in 2007, they advised the intent of Policy was to allow flexibility in establishing setbacks in built-up areas like Hazel Drive on lower Buck Gully.

The Approved Building Plans Are Consistent With Any Predominant Line of Development

This 2013 Appeal can be resolved by establishing an individual predominant line of development for the Knight Lot without affecting the entire block of homes. Staff concurs that this approach is allowed under the CLUP and consistent with City procedures. Ms. Knight proposes a predominant line that meets the following tests: it grants similar development rights to similar properties; it applies a standard that avoids creating non-conformities on existing lots to the extent possible; and it does not interfere with adoption of a predominant line for the entire block of homes in the future. The building plans previously approved by the Planning Director meet all of these tests.

The purpose of a predominant line of development is to control encroachment into natural areas, while respecting the rights of adjacent owners to use their property on an equitable basis. In this case, two aerial photographs are worth several thousand words. Two photographs of lower Hazel Drive, dated 3/5/2013, are attached as Knight0045-46; 0062. As clearly shown, "development" extends almost to the bottom of Buck Gully on a number of lots. The Knight Lot is tucked behind a much larger structure, blocking any views to the south. All but 4 lots extend farther into the Gully than the Knight Lot.

The General Plan/LCP Implementation Committee considered a 100' setback from the front property line as the predominant line of development, including both primary and accessory development in the same zone. Knight0042-43. This predominant line did not make any of the existing structures non-conforming, and would comfortably allow construction of the Knight Project, which extends 54'11' from the property line for the primary structure and less than 30' for decking and other accessory structures. As approved, the plans are consistent with the 100' setback line considered by the Committee.

In the 2007 Appeal, the City also considered information about existing setbacks submitted by the Knight family. All of the existing structures, both primary and accessory, were measured from their front property lines, and the size of lots analyzed. As shown on Knight0023-30 (Exhibits 4, 5, 6 and 7 to the 2007 Appeal), simple setback

averaging made a high percentage of lots non-conforming. Even dropping out the lots constrained by topography made seven of the lots non-conforming. Factoring in the size of lots, together with topography, met the above standards, and minimized non-conformity. See Knight0031-32 (Exhibit 8 to the 2007 Appeal). The preferred predominant line incorporated accessory structures within the setback lines in accordance with the City's definition of "development" and the general approach of the Committee. See Knight0033-34 (Exhibit 9 to the 2007 Appeal). The Knight Project is consistent with either of these predominant lines.

The "line of development" determined by the Planning Director on the 2007 Appeal was even more restrictive than the above lines, thus ensuring consistency with any future adoption. The primary line was set at 54'11" or at the same setback as the neighboring house to the south. The accessory line was set at the limit of the first terraced area on the property to the south, which is at the 54-foot contour line. This Determination allowed the residence to extend into Buck Gully by the same distance as the residence at 308 Hazel Drive, but required accessory structures to pull back to the north. It also reflected the larger size of the Lot, which has more developable area than most other Hazel Drive lots.

The Previously Approved Line Of Development for the Knight Lot Is Consistent With Precedent

In the absence of adopted predominant lines of development for Buck Gully and Morning Canyon, the City has used a modified stringline approach to ensure consistency with potential future predominant lines of development. For instance, of 16 stringline projects made available for review, four were approved before Policy 4.3.3-18 was adopted and another three were submitted at the same time as the Knight Project. Of the total 16 projects, stringlines were exceeded or modified for site-specific reasons in at least 12 cases. On some lots, both the primary and accessory structures appear to exceed the designated stringline. In other cases, the nearest structural corner is not used or the connection is unclear. City Staff has also worked with the Evening Canyon homeowners association, which applies its own slightly different stringlines to homes on the east side of Buck Gully. Aerial photographs of the 16 lots are available upon request.

Even in situations where a predominant line of development is not adopted, the Coastal Commission has applied stringlines flexibly to reflect existing development patterns, site characteristics and equity. At 3 Canal Circle in Newport Beach, for instance, the Coastal Commission explained that "each development is reviewed on a case-by-case basis and while in this area stringline is typically used to prohibit encroachment toward the [Semeniuk] slough, in this instance the siting of the existing development already established the development pattern and the proposed project would not exacerbate an existing non-conformity. Thus, the development as proposed is consistent with the character of the surrounding area." Staff Report, p. 1, #5-10-254, October 28, 2010 (Item W4a), attached as Knight0041. At 168 West Avenida San Antonio in San Clemente, the Commission rejected a stringline that "would further restrict the size of the development footprint compared with adjacent pattern of development

with no significant benefit of increased protection of coastal resources." Staff Report, pp. 10-11, #5-12-314, December 19, 2012 (Item W19g), attached as Knight0038-40.

Conclusion

For all of the above reasons, Ms. Knight requests reinstatement of the development line for 312 Hazel Drive previously determined by the Planning Director in 2008, or adoption of the predominant line of development shown at Knight0033-34 (Exhibit 9 of the 2007 Appeal).

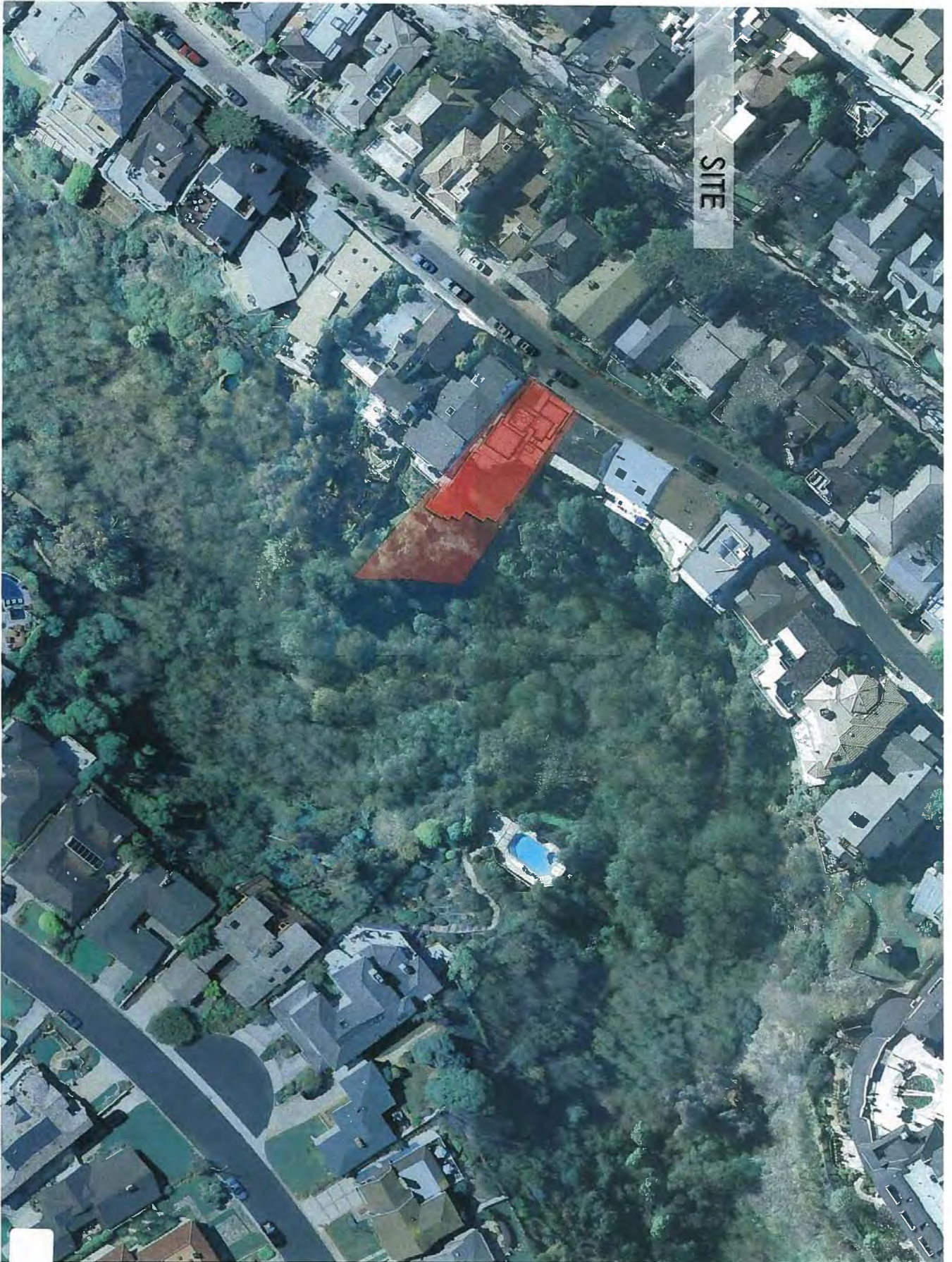
Very truly yours,



Deborah M. Rosenthal, AICP
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:408169837.2
Attachments

cc: Ms. Diane Knight
Ms. Kimberly Brandt, AICP
Mr. James Campbell
Ms. Makana Nova



SITE

Deborah M. Rosenthal, AICP
Direct Phone: 714.830.0607
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October 5, 2007

Via FedEx

Mr. David Lepo
Planning Director
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

**Re: "Predominant Line of Development" for 312 Hazel Drive,
Corona del Mar (Knight Appeal)**

Dear David:

On behalf of Diane Knight and Erik Sobolewski (the "Applicants"), this letter expands on the information submitted to Patrick Alford during our meeting at your offices on September 18, 2007. We appreciate the opportunity to supplement and explain the maps and calculations we provided at that time in connection with the issue of "predominant line of development." As we discussed with Patrick, we hope to work with Staff to resolve the rear setback for 312 Hazel Drive (the "Knight Property") administratively.

In our most recent discussion with Patrick, he asked the Applicants to designate their preferred approach to determining the "predominant line of development" for their property. As discussed in detail below, the Applicants support the predominant line shown on the attached Exhibit 9 (see item 5 on page 7). It is a line drawn on the existing line of land disturbance in the rear yards of the majority of homes along Buck Gully. It has the advantage that it does not make any of the existing homes or accessory structures non-conforming, while complying with the City's visual resource and landform alteration goals.

Factual Background

The Knight Property is located inland on Buck Gully, approximately half-way between Ocean Boulevard and East Cost Highway. The existing house is a small, one-story single-family structure built in the 1940s. The rear of the property is not visible from the coast or any public roads to the south, and is barely visible from East Coast Highway located some distance to the north.

Original Purchase: The Applicants purchased the Property three years ago with the intention of expanding the existing house consistent with the size of their lot, one of the largest on Hazel Drive. They worked closed with Staff to prepare a site plan that would satisfy all of the setback and other requirements under the existing zoning. They explored the necessity for a special environmental setback through extensive discussions with Staff, and reached agreement that normal rear setbacks would apply at this location.

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The Property is already subject to a 40' setback from the rear property line for environmental protection under an existing easement and the current zoning. All of the riparian habitat on the site is protected by the zoning setback. The developable portion of the Property, under the existing zoning, does not contain any sensitive habitats, flood plains or other vegetation. The development plan includes erosion and stormwater controls

Proposed Design: As revised in coordination with Planning Staff, the proposed home design minimizes grading impacts and respects existing topography by stepping down the property on four levels. Building floor plans are attached as Exhibit 1. The rear elevation of the residence is both compatible and consistent with the adjacent structures, and does not significantly affect either public or private views. Views of the proposed structure from East Coast Highway are shown on the visual simulation attached as Exhibit 2.

Surrounding Development: The Knight Property is the 15th house on the east side of Hazel Drive from its southern terminus. All 14 lots to the south have been improved with larger homes extending approximately equal distances into their rear yards. In addition to the main structures, many of these lots have extensive development in the rear yards, with retaining walls, free-standing structures and other significant improvements. Photographs of structures in the rear yards of the two houses immediately south of the Knight Property are attached as Exhibit 3.

Immediately north of the Knight Property are 5 or 6 smaller lots containing older cottages, which have not been remodeled. For the most part, these lots are considerably smaller than the Knight Property and have less buildable area. Although it is not visible from an aerial, these lots are also largely constrained by a steep drop-off into the canyon which physically precludes expansion into their rear yards. In effect, therefore, except for the Knight Property, all of the homes with usable rear yards on Hazel Drive have approximately equal rear development lines. The only exceptions are the homes on small lots located closer to a defined canyon edge immediately north of the Knight Property.

At approximately 5,000 square feet, Knight Property appears to be one of the largest residential lots on the west side of Buck Gully. In addition to its larger size, the Knight Property has a moderately sloping usable rear yard like the parcels to the south. Therefore, unlike the steeply sloping lots to the north, the Knight Property can support rear expansion without extensive grading. As noted above, the home is designed to fit the topography of the site consistent with the lots to the south, with minimal grading.

Planning Context

The Natural Resources Elements of the General Plan contains four goals relating to "Visual Resources." Goal NR 23 requires that: "Development respect natural landforms such as coastal bluffs." Policy NR 23.6 relates to Canyon Development Standards:

“Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements.”

Patrick Alford was involved in drafting this language. During our meeting, he explained that the “predominant line of development” was intended as the primary development control. The purpose of the stringline was to give the City flexibility to address site-specific situations where application of the predominant line would be impractical or unfair and to ensure that structures did not extend beyond the “predominant line of development.”

“Predominant line of development” is defined at page 14-61 of the Newport Beach General Plan as:

“The most common or representative distance from a group of structures to a specific point or line (e.g. topographic line or geographic feature). For example, the predominant line of development for a block of homes on a coastal bluff (a specific group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).

Patrick also explained that there is no single formula for determining a “predominant line of development” because of differences in physical features and factual situations. The definition also gives the City flexibility in determining the number of structures in a “group” or “block” that are relevant to establishing a predominant line. According to the General Plan, the purpose of establishing a predominant line is to protect visual resources, which can also guide the City’s decision-making.

“Development” is defined at page 14-45 of the General Plan as:

“The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.”

Under the General Plan, therefore, development is defined to include any area of land disturbance, such as terraces, decks, patios and accessory structures.

As stated in your letter of June 26, 2007, Ordinance No. 2007-3 establishes a set of criteria used to determine the consistency of certain residential projects with the General Plan, including the Natural Resources Element. Criterion No. 7 states:

“Site planning should follow the basic principle of designing development to fit the features of the site rather than altering the site to fit the design of the development. Whenever possible, altering natural features such as cliffs, canyons, bluffs, significant rock outcroppings, natural vegetation should be avoided or the extent of alteration minimized. Adequate buffers should be provided to protect significant or rare biological resources.”

In addition to its stated purpose of protecting visual resources, the Planning Department has concluded that Policy NR 23.6 can be used to interpret and apply Criterion No. 7 to development along Buck Gully.

Determination of Predominant Line of Development

After our meetings with you and Patrick Alford, the Applicants worked with their architect to collect information about surrounding development. They limited their analysis to seven existing houses to the south and eight houses to the north, for a total of 15. Although there are another seven houses further south on the west side of Buck Gully, they do not significantly differ in scale from the seven nearer homes.

The information collected by the Applicants showed the distance from the front lot line to the main rear elevation of the structure for each of the 15 homes in the analysis, based on building permit information and aerial photographs. Accessory development was also assessed, using aeriels obtained from the City at a 1.5' resolution. The resulting development lines were calculated mathematically and drawn on the aeriels using a CAD computer program.

With their architect, the Applicants evaluated the following potential approaches:

1. *Mean Development Line/Current Development:* Exhibit 4 shows the mean line of development obtained by totaling the rear elevation distances for all 15 primary structures and dividing by 15. The distances ranged from 23'1" for House 8 to 73'10" for House 15, resulting in a mean development line of 45'6" from the front lot line. Although simple to calculate, this approach was removed from further consideration for the following reasons:

(a) it would make 8 of the 15 homes (53%) non-conforming, depriving the property owners of the right to re-build in the event of catastrophic loss. If the additional 7 homes to the south had been included, an

even higher percentage would have been non-conforming;

(b) it would make the existing accessory improvements on most of the adjacent lots non-conforming, preventing any replacement or expansion;

(c) it does not differentiate between moderately and steeply sloping yards, which require different amounts of grading and result in different visual impacts;

(d) it imposes additional rear setbacks on private property without making any difference in the level of visual resource protection, as shown on Exhibit 2; and

(e) it establishes a "predominant" line that is exceeded by more than half of the affected homes, which is not reasonable.

2. *Mean Development Line/North and South:* Exhibit 5 shows the mean lines of development separately for the properties north and south of the Knight Property. The mean setback line for the 7 properties south of the Knight Property is 51'3." The mean setback line for the 8 properties north of the Knight Property is 40'7." In effect, this approach resulted in grouping the homes along Buck Gully into two "blocks," based on lot size and topography. As explained above, the Knight Property is similar to the southern lots, both in size and topography. However, this approach was removed from further consideration for the following reasons:

(a) it would make 4 of the 7 homes (57%) to the south and 3 of the 8 (37%) homes to the north non-conforming, depriving the owners of all newer homes on the street of the right to re-build in the event of catastrophic loss;

(b) it would make the existing accessory improvements on most of the southerly lots non-conforming, preventing any replacement or expansion;

(c) it imposes additional rear setbacks on private property without making any difference in the level of visual resource protection, as shown on Exhibit 2; and

(d) it establishes a "predominant" line that is exceeded by more than half of the homes in the group, which is not reasonable.

3. *Mean Development Line/Developed Sites Only:* Exhibit 6 shows the mean line of development for all 10 of the fully developed sites, but excluding the smaller cottages to the north located closer to a steep canyon edge. The resulting mean setback line for the 10 developed sites is 52'11." This approach recognizes the topographic constraints applicable to the 5 smaller lots, but it was nonetheless removed from further consideration for the following reasons:

- (a) it would make at least 3 of the 10 homes (30%) non-conforming, depriving the owners of the right to re-build in the event of catastrophic loss;
- (b) it would make many of the existing accessory improvements on the southern lots non-conforming, preventing any replacement or expansion;
- (c) it imposes additional rear setbacks on private property without making any difference in the level of visual resource protection, as shown on Exhibit 2; and
- (d) it is not based on the actual amount of "development" on the lots because it is limited to the main structure only; and
- (e) it treats structures on the east side of Buck Gully differently from those on the west side, which have a mean primary structure line of 62'8" from their front lot lines. See Exhibit 7.

4. *Predominant Line/Primary Development:* Exhibit 8 shows the predominant line that results from averaging the depths of homes on lots at least equal in size to the Knight Property. For the most part, it skims the existing rear elevations, with the major advantage that it would make only a small part of one home non-conforming. It is consistent with the majority of primary structures along Buck Gully, and recognizes existing lot sizes and topography. On the smaller lots, the canyon edge serves as a physical constraint that would effectively prevent development from extending to the predominant line; environmental setback requirements would add an additional level of protection at these locations. The Applicants can accept this approach because it is consistent with existing rear elevations and would not penalize owners of the larger homes in the event of catastrophic loss.

However, the Primary Development approach does not truly reflect the actual amount of "development" along Buck Gully. As noted above, the General Plan defines development to include any area of land disturbance. In this case, most of the homes along Buck Gully include extensive improvements extending a substantial distance into their rear yards. For instance, the parcel immediately south of the Knight Property is terraced, with permanent retaining walls, paving and other structures. The next property has a free-standing accessory structure located some additional distance from the main

Mr. David Lepo
Page 7

structure, with a terraced slope. *See* Exhibit 3. If these improvements are considered “development,” in accordance with the General Plan glossary, they would be non-conforming for the purposes of future replacement.

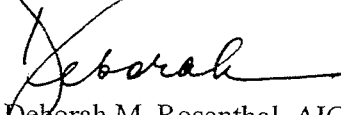
In terms of visual impact, there is no significant difference between the lower levels of the proposed Knight home and the retaining walls and structures on adjacent property. All of them are screened from view by topography and vegetation. In terms of landform alteration, there is no significant difference between the grading required for the proposed Knight home and the paved terraces and retaining walls on adjacent property. Both of them require grading, but follow the natural landforms. For this reason, the Applicants believe that the Primary Development approach is more restrictive than necessary under the General Plan.

5. *Primary Line/Accessory Development:* Exhibit 9 shows the predominant line that results from following the actual line of ground disturbance in the rear yards of the 15 homes along Buck Gully. The Applicants believe this line is appropriate because it is consistent with both the visual resource goal of the General Plan and the landform protection goal of Ordinance No. 2007-3. The Applicants therefore support this approach because it allows the same amount of land disturbance, *i.e.* “development,” on their property as on other properties along the east side of Buck Gully.

We appreciate the opportunity to explain the various approaches analyzed by the Applicants and the reasons they support a “predominant line of development” that is consistent with the goals and definitions of the General Plan. We are available to discuss this information with you at your earliest convenience, and to answer any questions you may have about how the exhibits were created.

Thank you for the close attention you and Patrick have given this matter.

Very truly yours,



Deborah M. Rosenthal, AICP

Enclosures

cc: Mr. Patrick Alford
Mr. Erik Sobolewski
Ms. Diane Knight



package id
0112757

ship date
Fri, Oct 05

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return label
No

notification type
Delivery

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create time
10/05/07, 4:19PM

vendor
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service
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packaging
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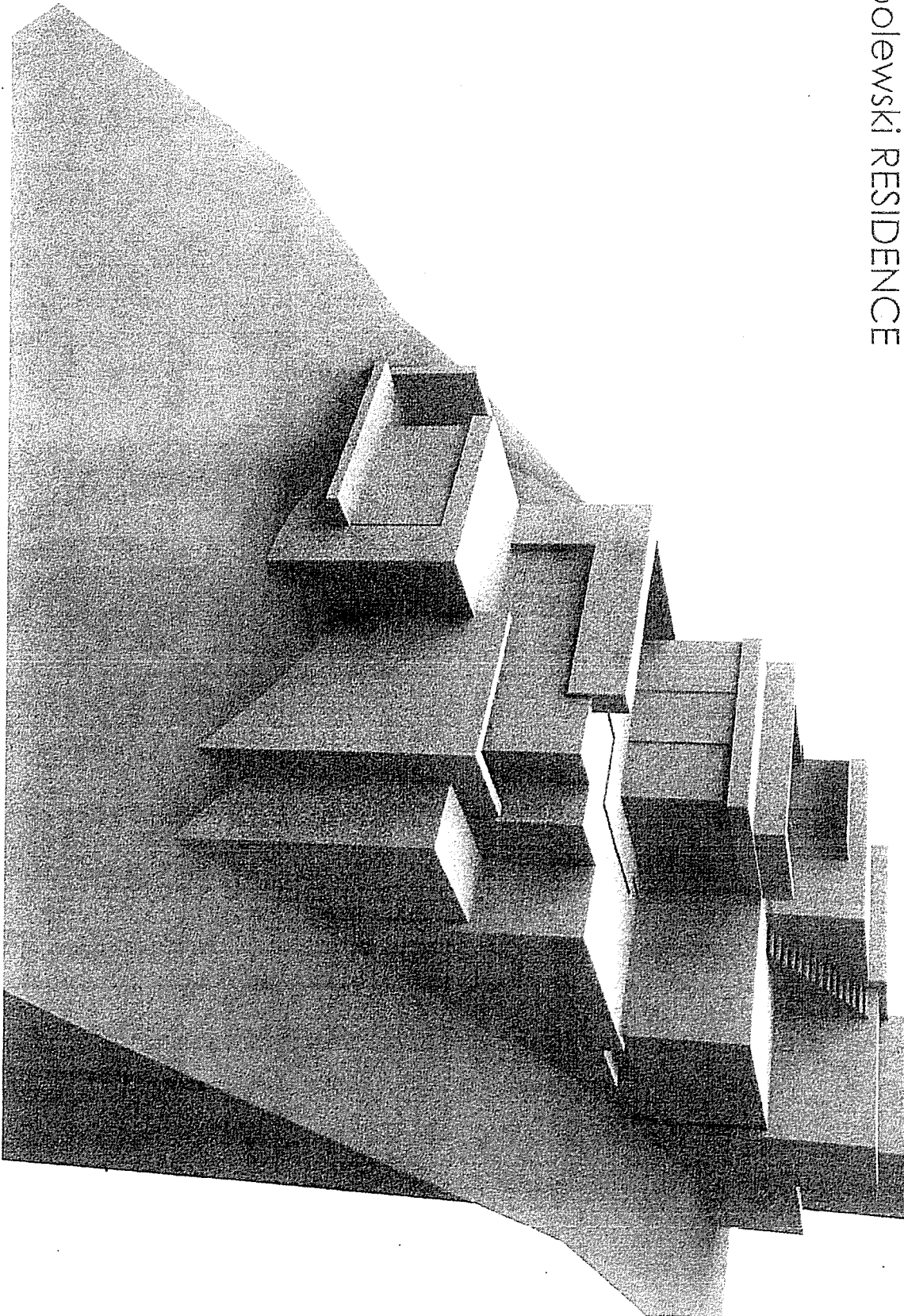
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Knight0009

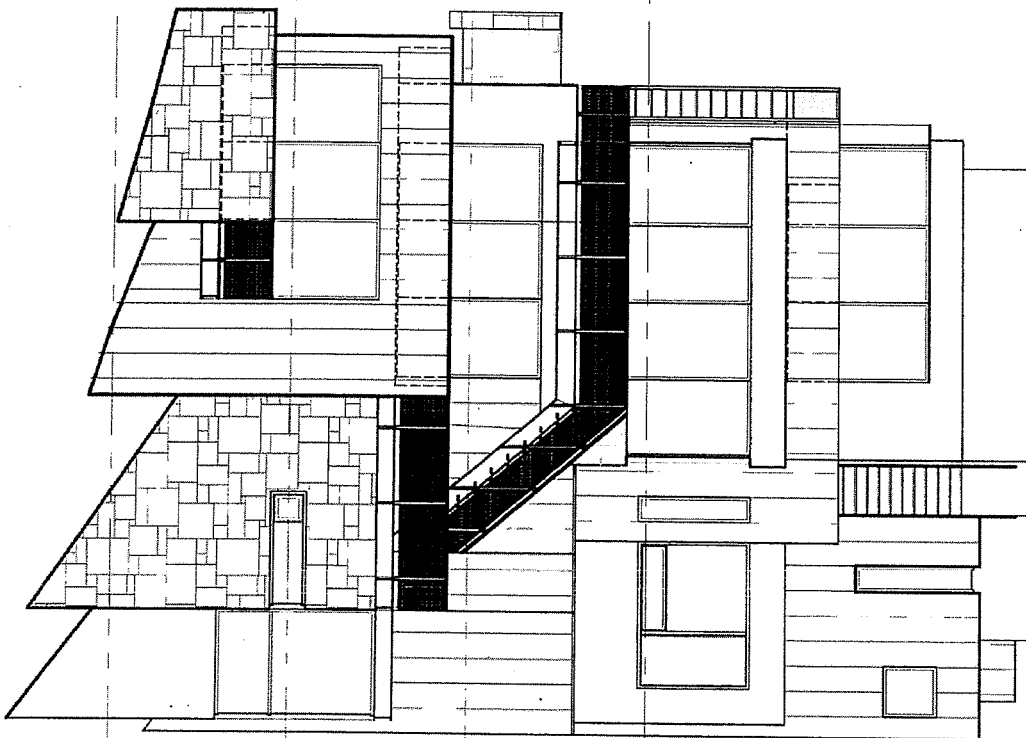
EXHIBIT 1

Sobolewski RESIDENCE

3
1
2
H
A
N
Z
E
L



East Elevation



70

80

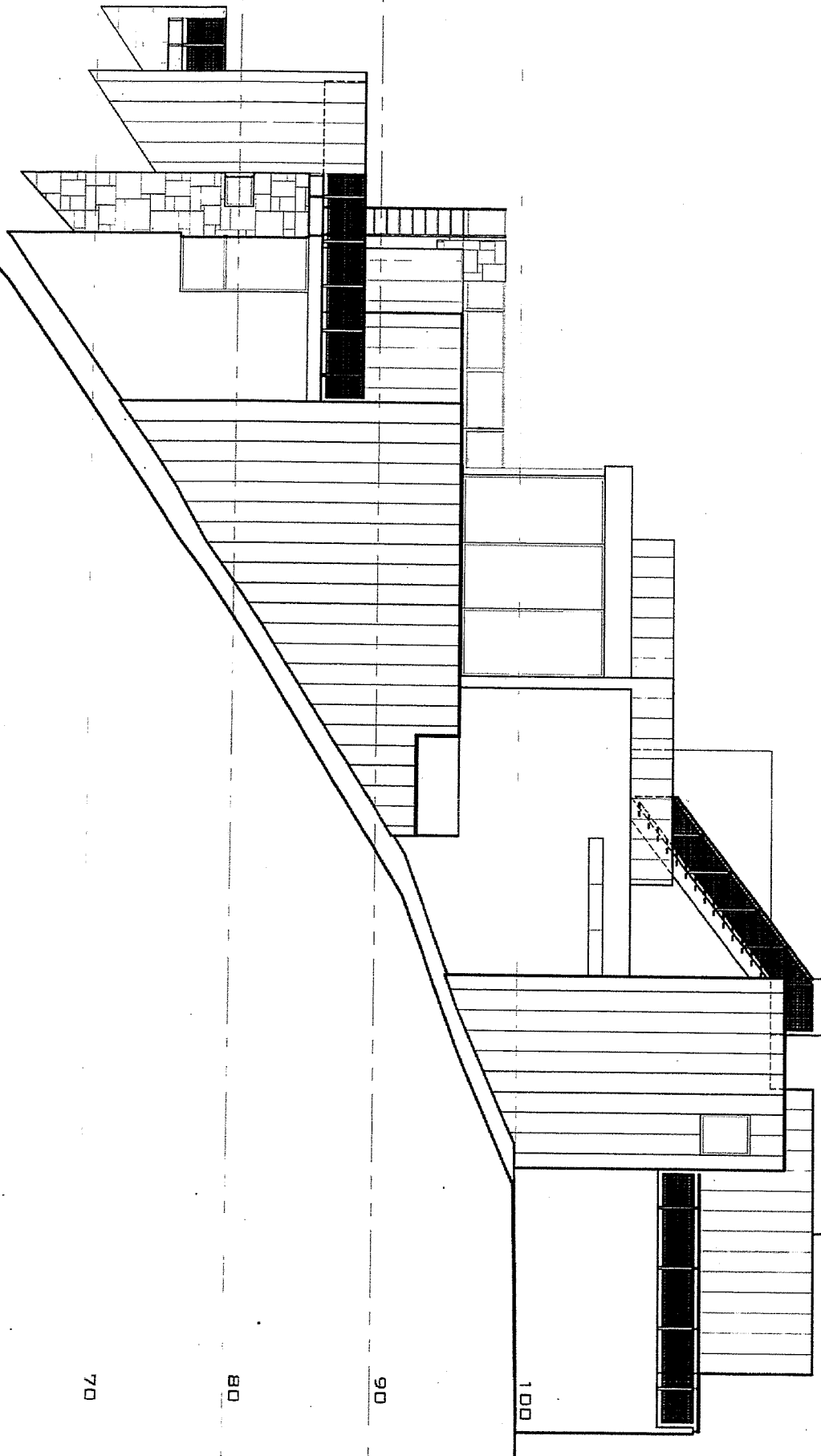
90

100

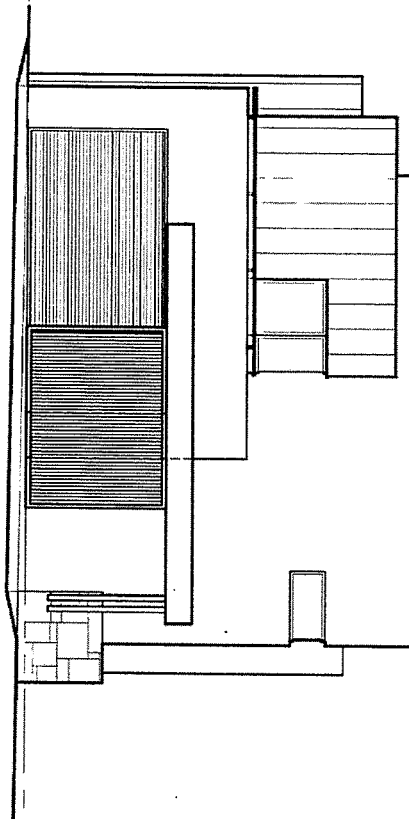
Scale: 1/8" = 1'-0"

Knight0012

North Elevation



Scale: 1/8" = 1'-0"



100

90

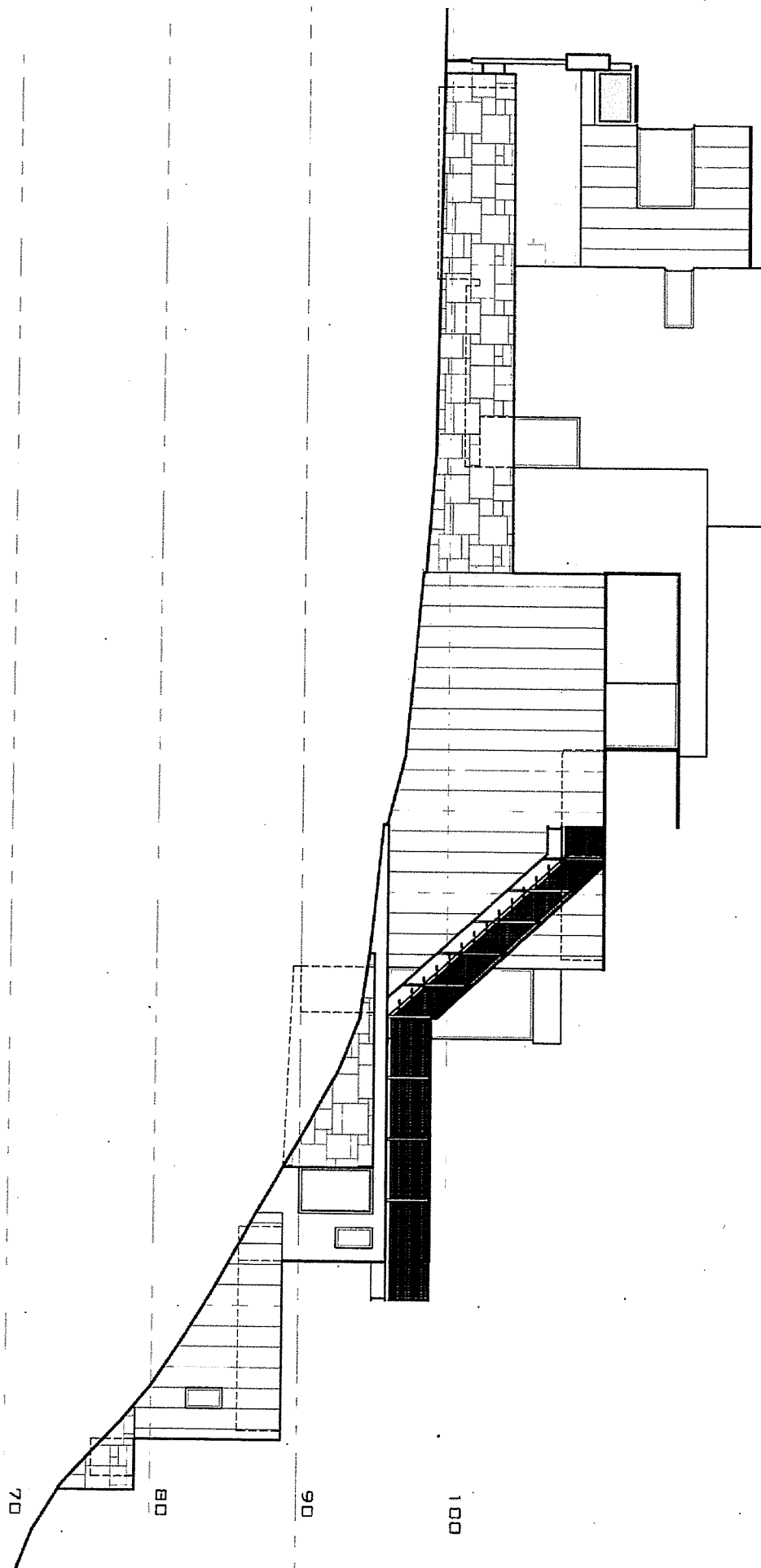
80

70

West Elevation

Scale: 1/8" = 1'-0"

South Elevation



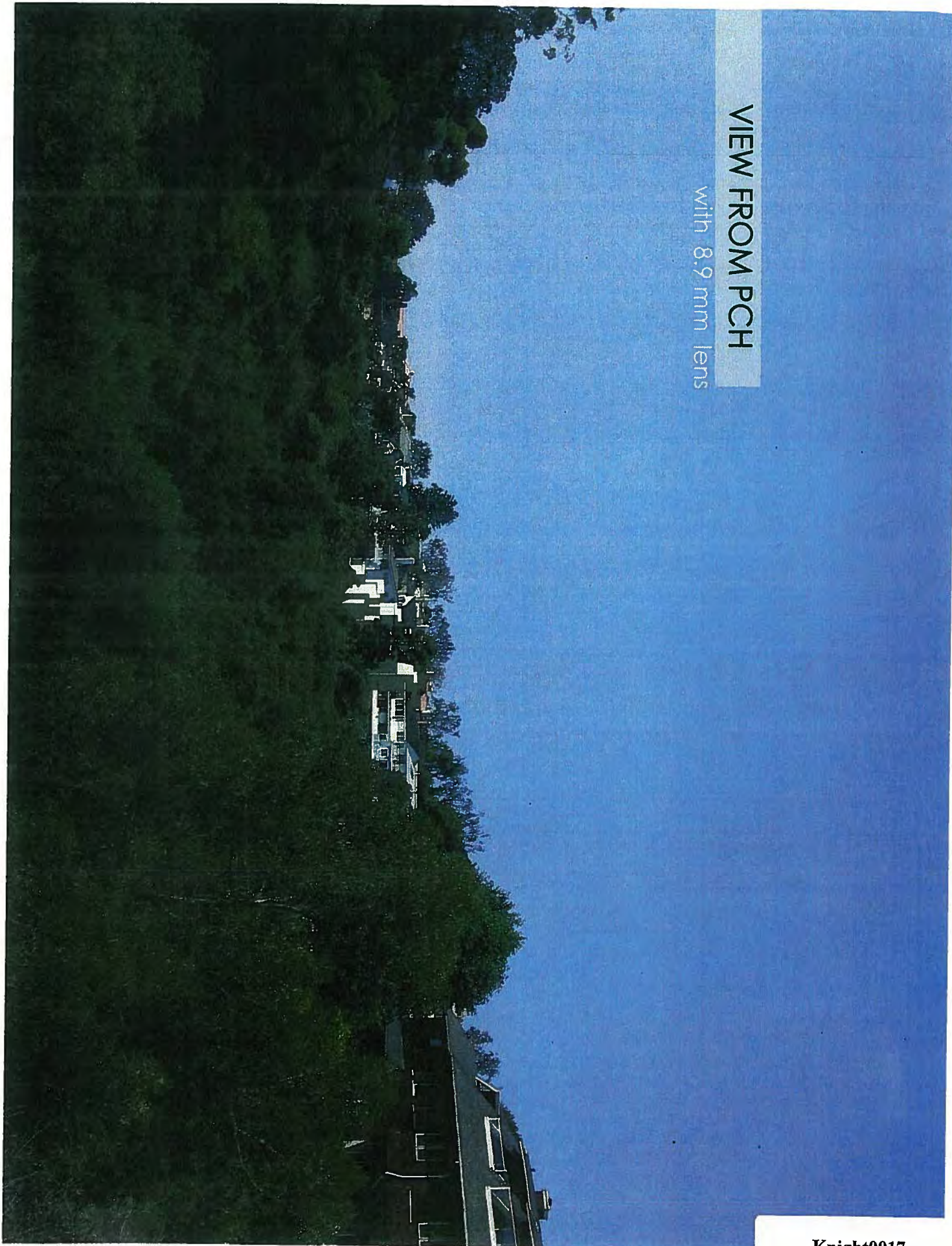
Scale: 1/8" = 1'-0"

Knight0015

EXHIBIT 2

VIEW FROM PCH

with 8.9 mm lens



VIEW FROM PCH

With 71.2 mm lens

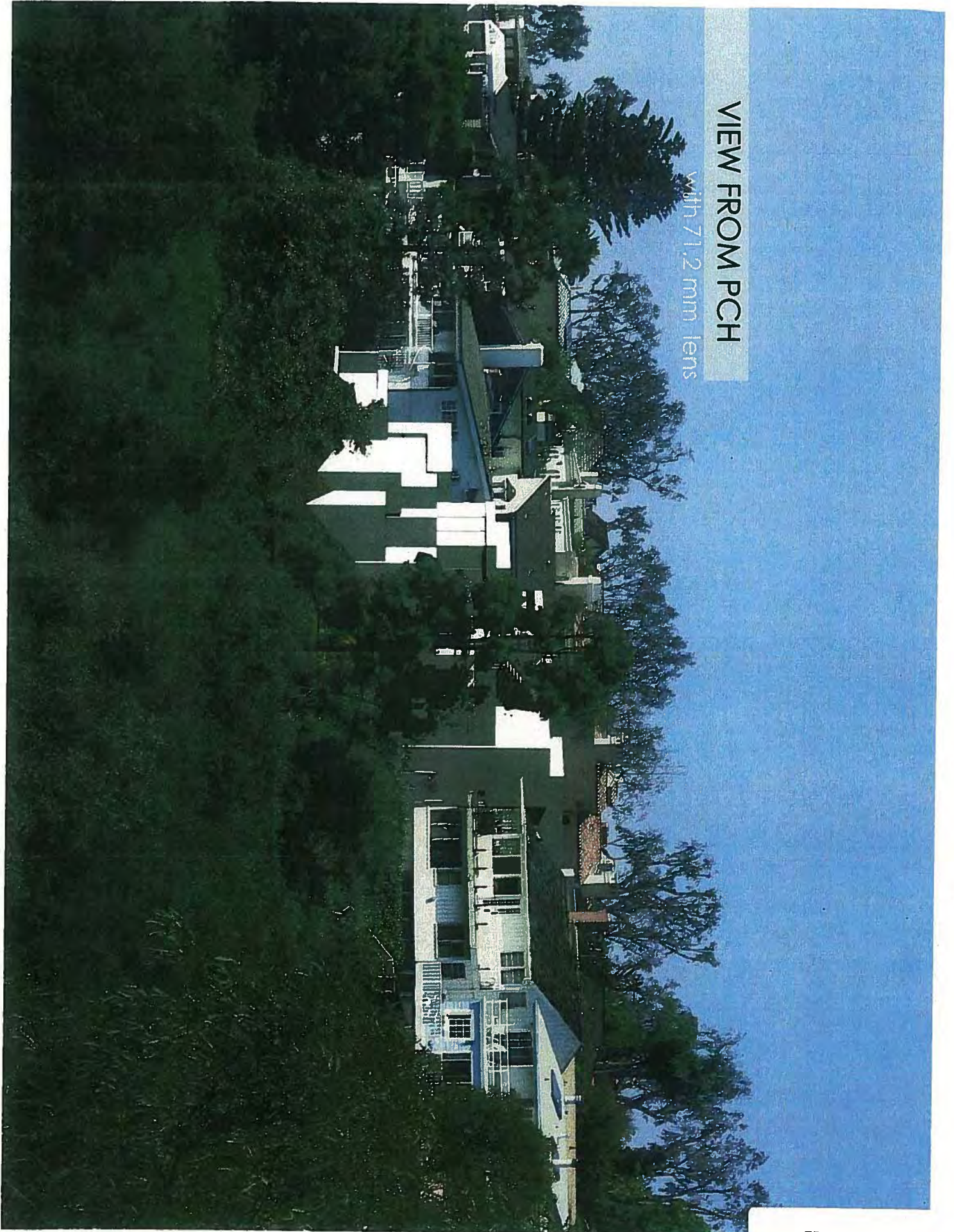
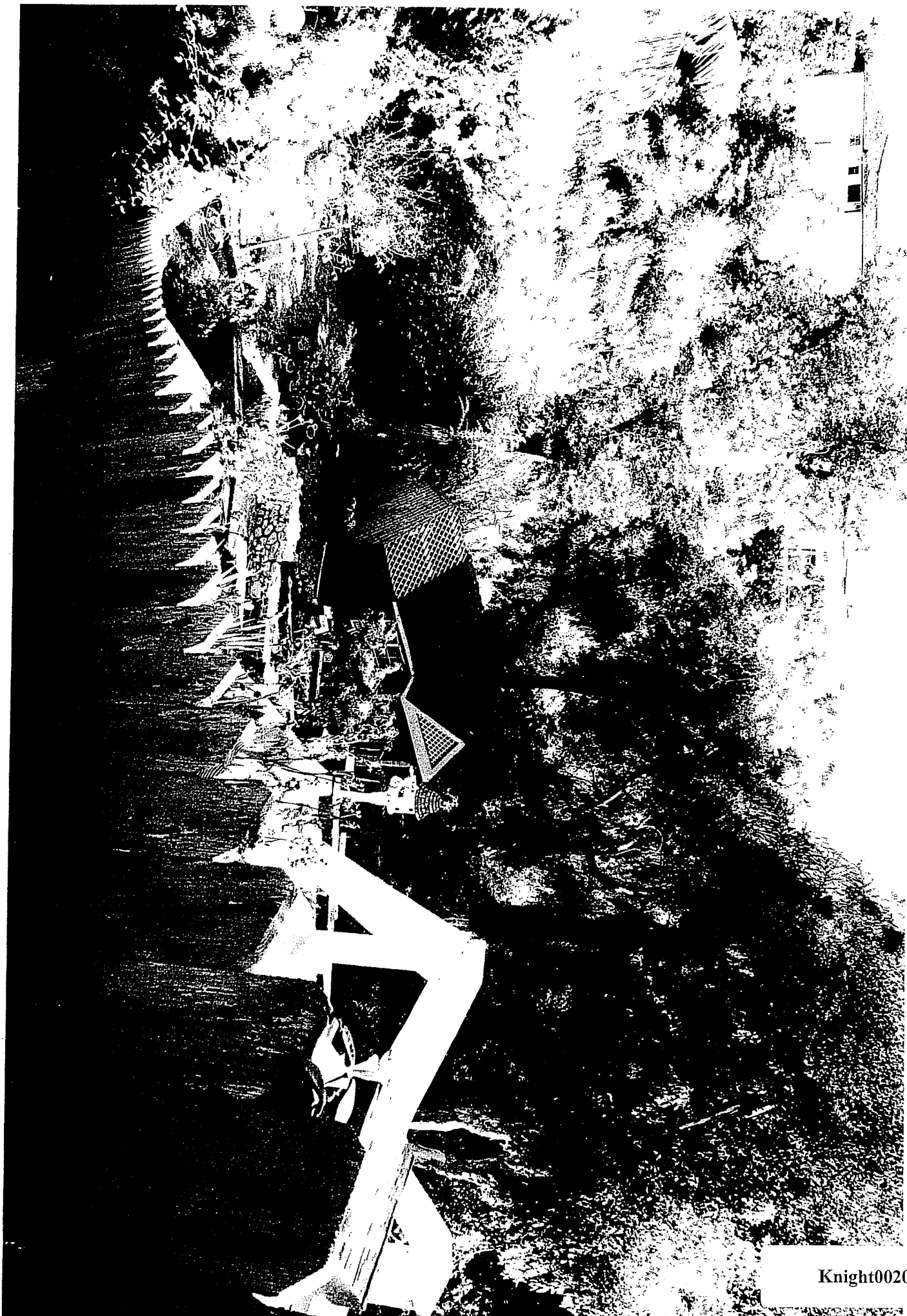


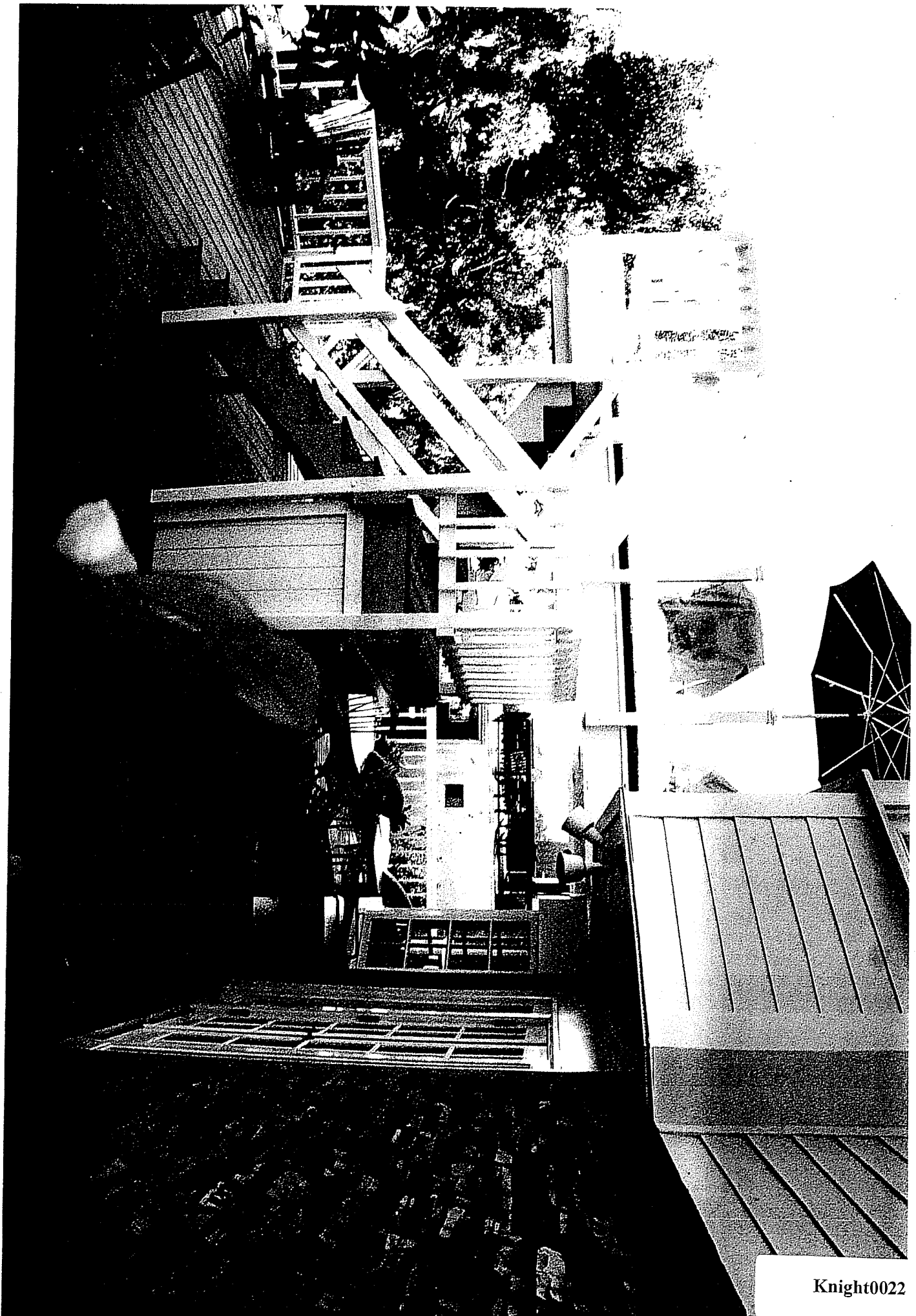
EXHIBIT 3



Knight0020



Knight0021



Knight0022

EXHIBIT 4

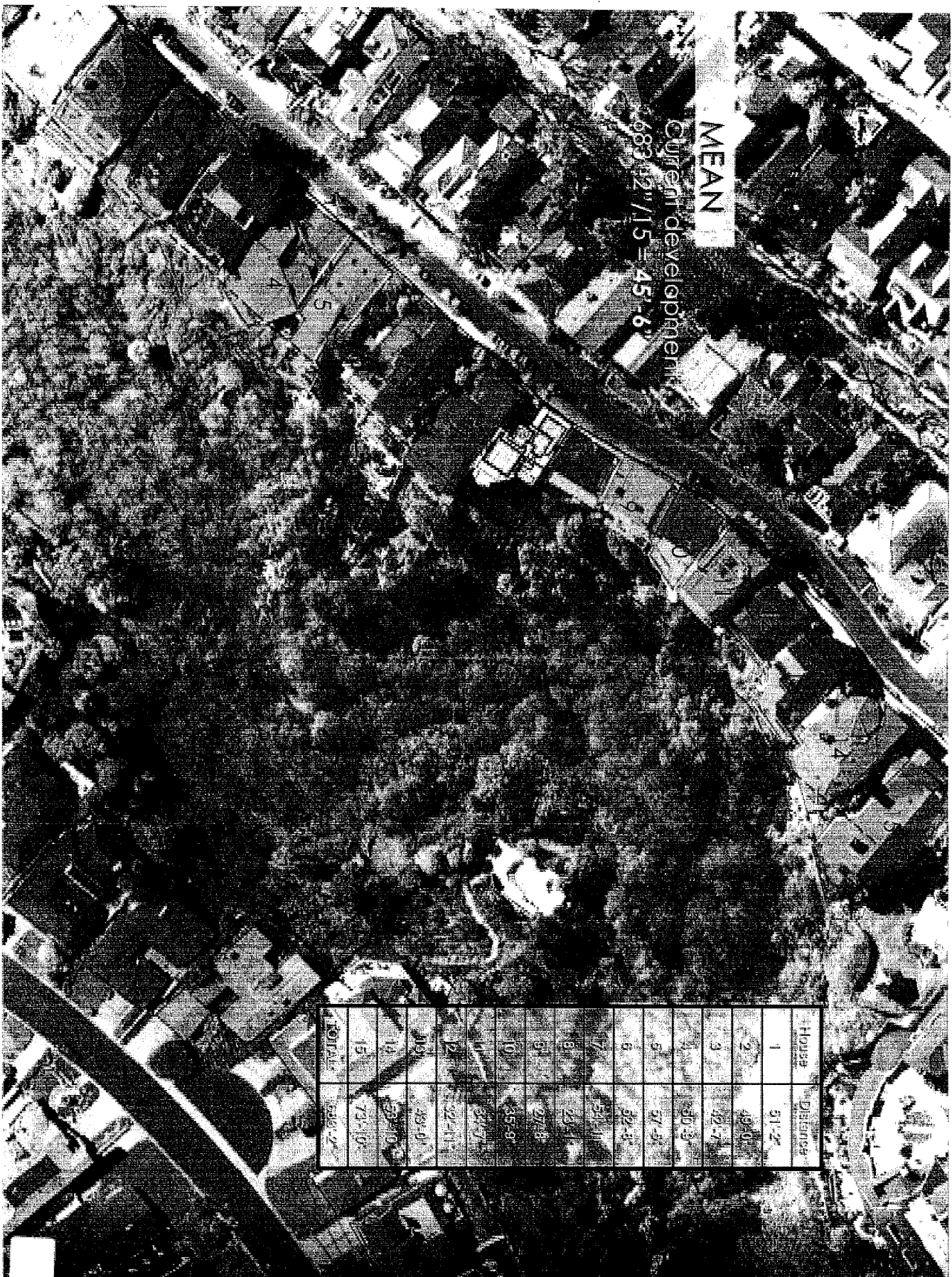


EXHIBIT 5

MEAN

North (8-15)

324'-8"/8 = 40'-7"

South (1-7)

358'-6"/7 = 51'-3"

Houses	Columns
1	51'-2"
2	49'-1"
3	42'-7"
4	30'-1"
5	37'-2"
6	32'-8"
7	27'-1"
TOTAL	358'-6"
8	23'-1"
9	27'-8"
10	35'-8"
11	34'-7"
12	32'-6"
13	33'-4"
14	33'-10"
15	42'-10"
TOTAL	323'-8"

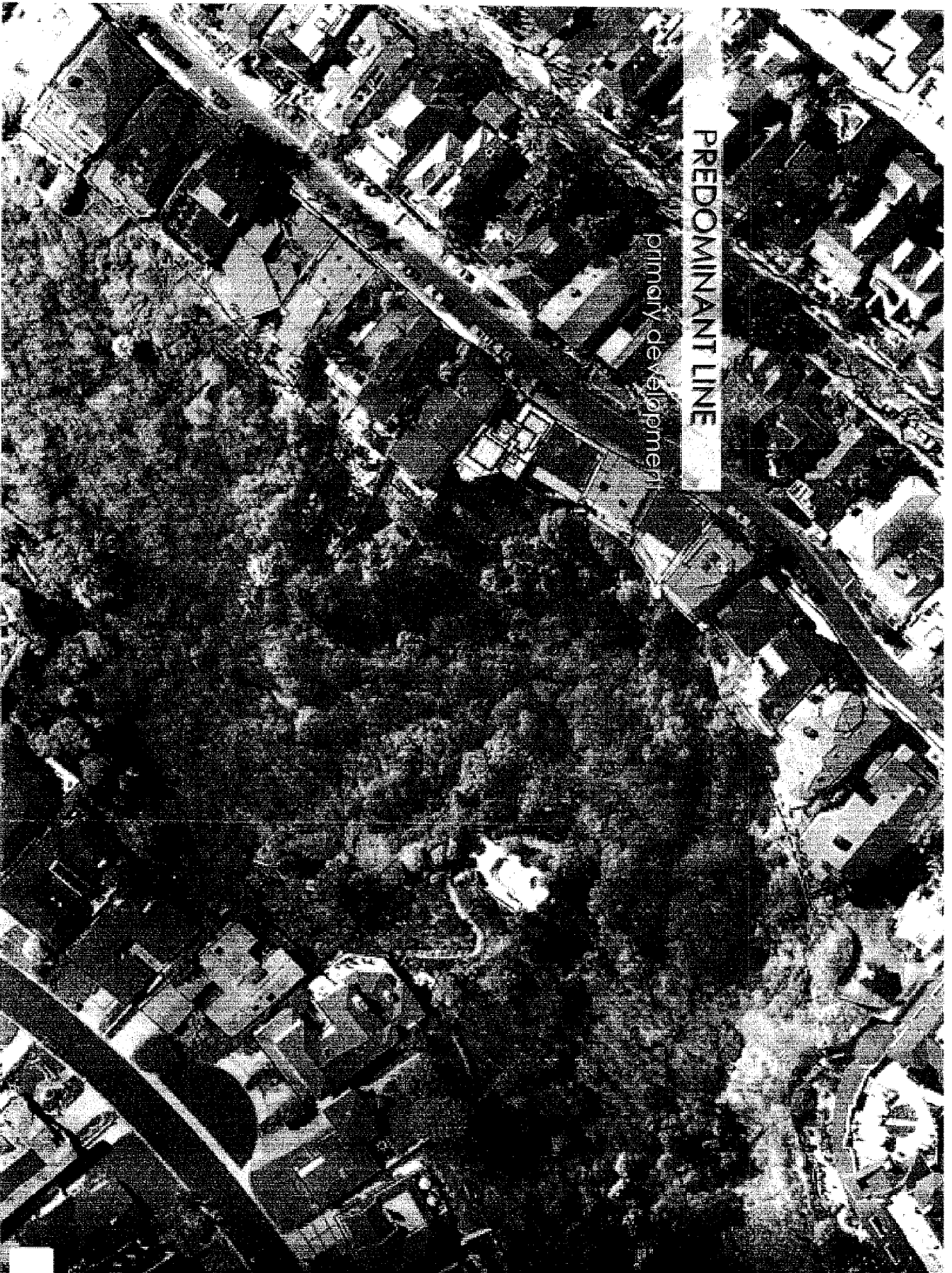
EXHIBIT 6



EXHIBIT 7



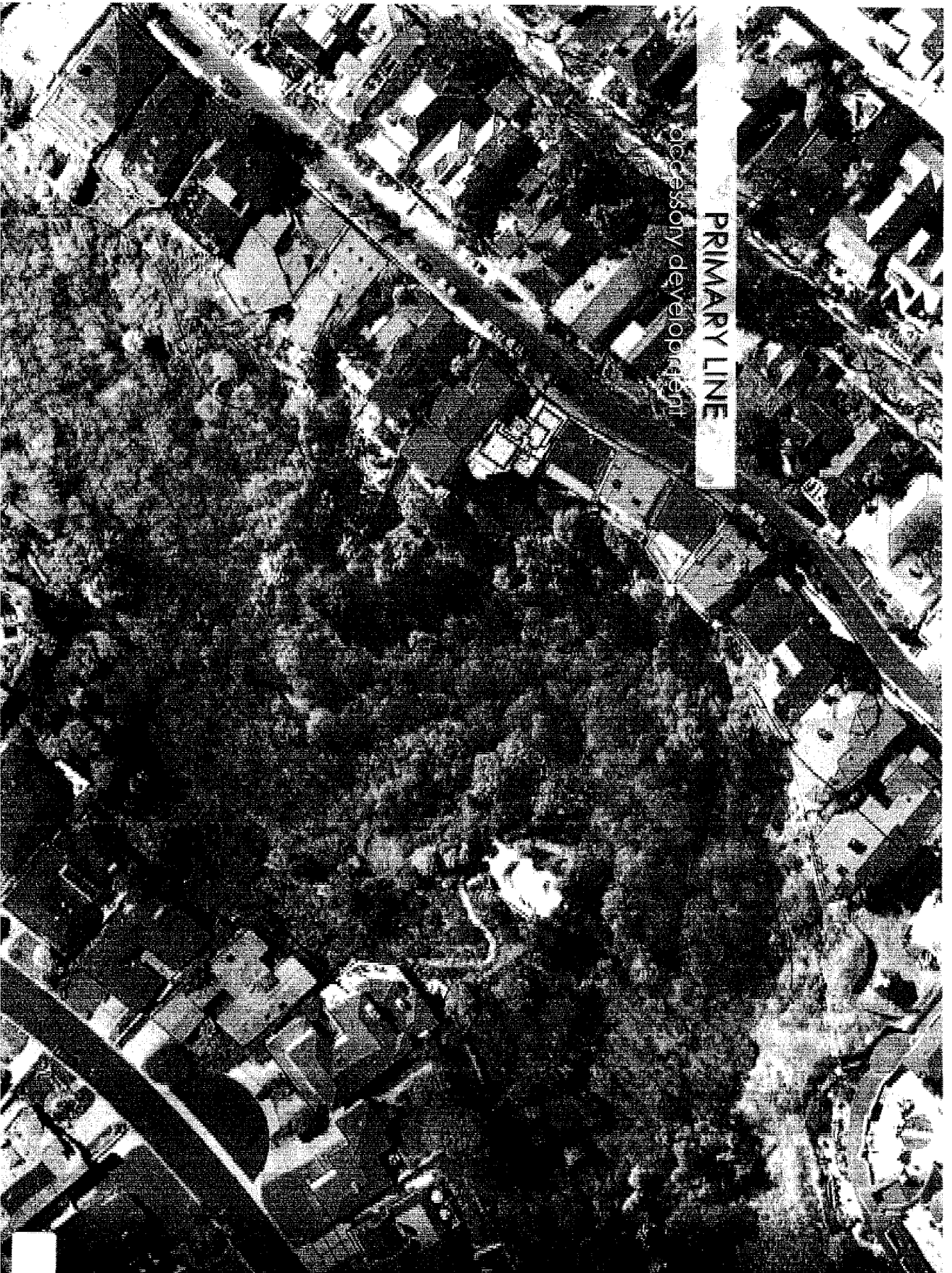
EXHIBIT 8



PREDOMINANT LINE

primary development

EXHIBIT 9



accessory development

PRIMARY LINE



Appeal Application

Community Development Department
Planning Division
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3204 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

For Office Use Only

Date Appeal Filed: _____

Fee Received: _____

Received by: _____

Application to appeal the decision of the: ☐ Zoning Administrator
☐ Planning Director
☐ Hearing Officer

Appellant Information:

Name(s): Diane Knight
Address: 312 Hazel Drive
City/State/Zip: Corona Del Mar, CA 92625
Phone: 714.337.0288 Fax: 949.515.4608 Email: diane@line-up.com

Appealing Application Regarding:

Name of Applicant: Diane Knight Date of Decision: 2-15-13
Project No. (PA): PA2013-043 Activity No.: _____
Site Address: 312 Hazel Dr CDM CA
Description: Joining appeal with MR Ou - (316 Hazel Dr)

Reason(s) for Appeal (attach a separate sheet if necessary): _____

justification on separate sheet

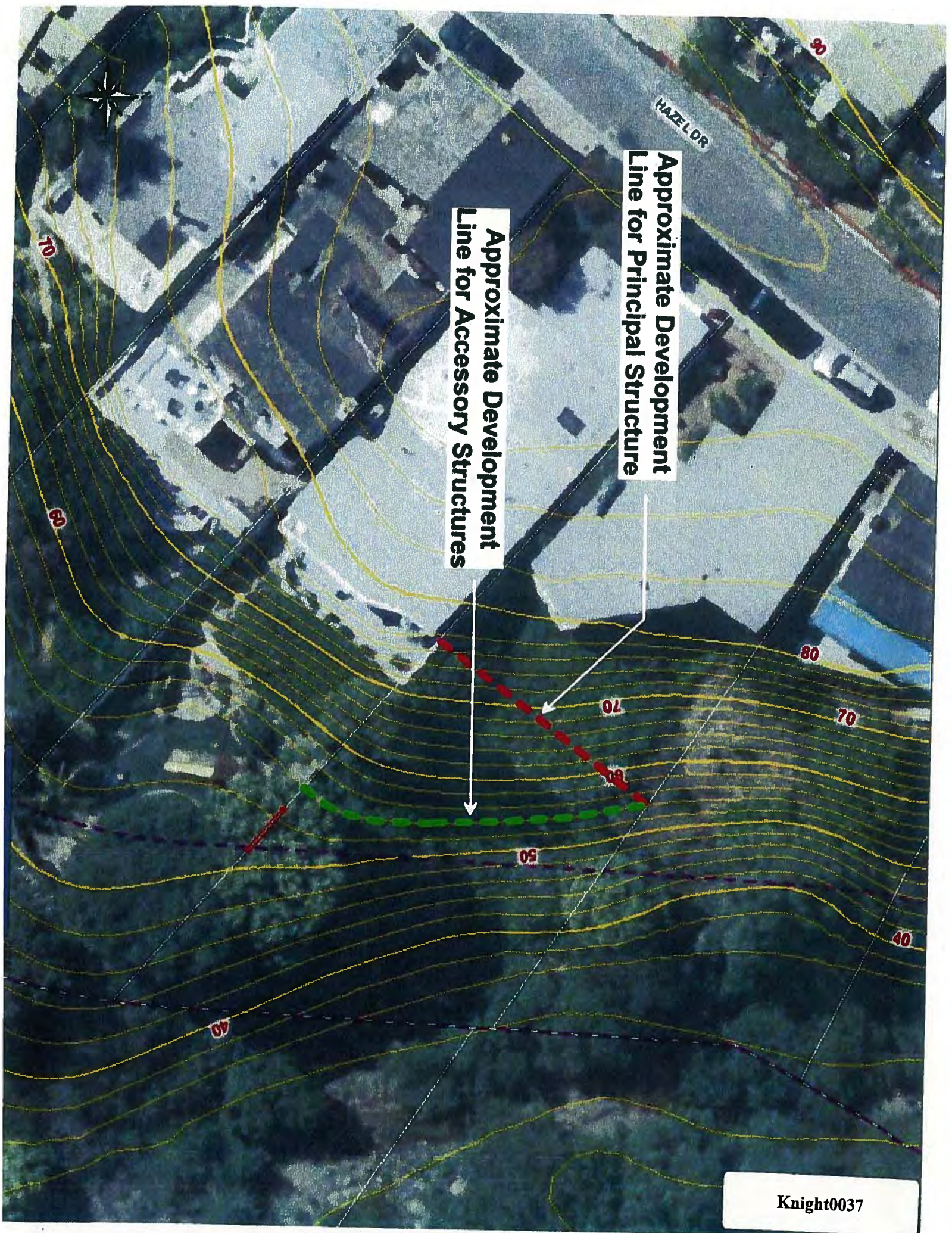
Along with application, please submit the following:

- Twelve (12) 11x17 sets of the project plans
- One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.

Signature of Appellant: Diane Knight Date: 2-28-13

Knight Appeal

"Staff's determination of the predominant lines of existing development is arbitrary, unnecessarily restrictive, and contrary to the previously established predominant lines of existing development. Among other things, the development setback established by the Planning Director: (1) is inconsistent with the definition of "predominant line of development" adopted by the City; (2) is inconsistent with the predominant line of development previously applied to the property; (3) deprives the property owner of rights enjoyed by adjoining property owners; and (4) arbitrarily restricts development of the Knight property based solely on the size of a single adjacent structure."



Approximate Development
Line for Principal Structure

Approximate Development
Line for Accessory Structures

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



W19g

Filed: 12/19/12
180th Day: 6/16/13
Staff: L. Roman-LB
Staff Report: 1/17/13
Hearing Date: 2/6/13

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-12-314

Applicant: Kim and Karen Markuson

Project Location: 168 West Avenida San Antonio, San Clemente,
Orange County

Project Description: Demolition of an existing 1,268 sq. ft. single story residence with attached 262 sq. ft. garage and rear wood deck and construction of a new 1,922 sq. ft. two-story, single family residence with a 290 sq. ft. second story balcony deck, attached 390 sq. ft. garage and 300 sq. ft. basement level, retaining walls, landscaping, and 230 cu. yds. of grading on a canyon lot

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The subject application requests approval for demolition of an existing 1,268 sq. ft. one story single family residence with attached 400 sq. ft. garage and rear wood deck and construction of a new two-story, 25' high, 1,922 sq. ft. two-story, single family residence with a 290 sq. ft. second story balcony deck, plus an attached 390 sq. ft. garage and 300 sq. ft. basement level, deepened footing foundation, retaining walls, fencing, and landscaping (Exhibit #2). Grading will consist of approximately 230 cu. yds. of cut to create the proposed basement storage level.

The certified LUP identifies three canyon setback choices which are to be selected based upon 'site characteristics'. There are seven canyons identified in the LUP and these setback choices exist because conditions from canyon to canyon, and within each canyon, are highly variable. Each canyon has a different shape, width and depth. The degree of existing disturbance within each canyon is also different. The land uses, density and intensity of development also vary. Public views of the canyons vary from point to point. The lots along and in these canyons vary with regard to lot size and shape. The topography of each lot can be highly variable, where in some cases there are canyon-top areas to site structures, there are other lots comprised mostly of canyon slope and canyon bottom. The pattern of existing development along the canyon changes from place to place. Another site characteristic that changes is presence or absence of native vegetation and/or a stream on the lot. Considering these site characteristics, a setback must be chosen that achieves habitat protection and enhancement, minimizes visual impacts and landform alteration, and avoids cumulative adverse impacts of the encroachment of structures into the canyon. Finally, sometimes equity is a consideration (i.e. size of development footprint available under each setback scenario compared with adjacent development) and a stringline approach to siting is adopted for particular projects so long as the stringline setback doesn't impact other coastal resources (i.e., geologic stability, habitat protection, etc.).

A coastal canyon setback utilizing option "a" in the City's LUP Chapter 3, Section 302 G, policy VII.15, would considerably minimize the site's buildable area after consideration of all other setbacks. The canyon edge (i.e., uppermost break in slope) was identified at approximately the 149' contour line by staff geologist Dr. Mark Johnsson on a site visit in March 2012. The existing structure is setback approximately 10' from the canyon edge. Setback option "a" would require a minimum 15' setback from the canyon edge for the new development. The existing homes along this segment of West Avenida San Antonio are roughly in alignment with one another on the canyon side of the lot. If the 15' setback from canyon edge was used in this case, the new residence would be further landward than all of the other homes along this segment. Thus, it would not be consistent with the existing pattern of development.

While there is a mixture of native and non-native vegetation on the subject site, vegetation on the lot is predominately ornamental along the top of canyon including fruit trees. As there is no riparian vegetation or a discernible line of coastal sage scrub vegetation, setback option "b" is not useful in this case.

The proposed project should be sufficiently set back to be consistent with the pattern of development in the surrounding area, to protect habitat and avoid frustration of future canyon habitat enhancement efforts by avoiding encroachment into the canyon (both individually and cumulatively). The applicant has designed the project to meet the stringline setback; setback option "c" of the certified LUP. Staff agrees that the use of a stringline setback would adequately protect coastal resources. However, the stringline was not correctly drawn on the submitted plans. A correctly applied stringline which is a line "*drawn between the nearest corners of the adjacent structures*" would result in a loss of approximately 4' of buildable area between the front and rear setbacks on the property resulting in approximately 42' depth of lot of buildable area. The applicant has already received a variance from the City to exceed the front yard setback. No such variance exists for canyon setback. The correctly drawn stringline setback would further restrict the size of the development footprint compared with adjacent

pattern of development with no significant benefit of increased protection of coastal resources. Therefore, considering the specific site characteristics, and the fact that the applicant proposes to remove existing non-conforming development in the canyon, and to improve the canyon habitat by removing non-natives and planting natives, staff recommends that the proposed new residential structure not encroach further toward the coastal canyon than the existing pre-Coastal Act residential structure. The existing single family residence mimics the stringline setback, only protruding 2' past the stringline on a 14' long wall along the southern corner facing the canyon and is compatible with the surrounding pattern of development. **Special Condition #1** requires the applicant to submit revised plans to pull the proposed structure back a few feet from the canyon edge so that the setback of the new structure on the canyonward side of the lot maintains the same footprint as the existing pre-Coastal Act residence ensuring the new structure does not encroach further into the canyon. Furthermore, the applicant proposes, and **Special Condition #1** ensures, the removal of unpermitted development in the canyon to protect habitat and avoid frustration of future canyon habitat enhancement efforts by avoiding encroachment into the canyon.

Landscaping

San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons. Rare or endangered species have been documented to exist within the relatively undisturbed Marblehead coastal canyons of San Clemente. However, the City has designated all coastal canyons, including Los Lobos Marinos Canyon, as environmentally sensitive habitat areas (ESHA), as depicted in Exhibit #4. The coastal canyons act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the canyons. As such, the quality of canyon habitat must be assessed on a site-by-site basis.

The canyon adjacent to the subject site is considered somewhat degraded due to previous grading (cut/fill) forming terraces on the canyon face and the presence of both native and non-native plant species. No portion of the area on the subject site that is proposed to be graded or otherwise developed with structures contains resources that rise to the level of ESHA. However, to decrease the potential for canyon instability, deep-rooted, low water use plants, preferably native to coastal Orange County should be selected for general landscaping purposes in order to minimize irrigation requirements and saturation of underlying soils. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the canyon slope. Drought resistant plantings and minimal irrigation encourage root penetration that increases slope stability. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" (a.k.a. WUCOLS) prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>

Additionally, since the proposed development is adjacent to a coastal canyon, designated as ESHA by the City, the the protection and enhancement of habitat values is sought, and therefore the placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

W 4a

Filed: October 28, 2010
49th Day: December 16, 2010
180th Day: August 20, 2007
Staff: Fernie Sy-LB
Staff Report: December 22, 2010
Hearing Date: January 12-14, 2011
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NUMBER: 5-10-254

APPLICANTS: Sean & Julie Pence

AGENT: Eric Aust

PROJECT LOCATION: 3 Canal Circle, City of Newport Beach (County of Orange)

PROJECT DESCRIPTION: Remodel and addition of an existing two-story, 2,454 square foot single-family residence with an attached 484 square foot two-car garage located on a water front parcel (Semeniuk Slough). Post project the two-story, single-family residence will be 2,980 square feet with an attached 451 square foot two-car garage. No grading is proposed

SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing the remodel and addition of an existing two-story single-family residence located on a water front parcel. The major issue of this staff report concerns waterfront development that could be affected by flooding and erosion during extreme storm events and development adjacent to a wetland (Semeniuk Slough). Typically in this area of Newport Beach, stringline is used in order to avoid encroachment of development on the slough. In this case, portions of the proposed additions do not adhere to the "accessory structure stringline" and the "principal structure stringline". However, impacts caused by these encroachments and the condition of existing development must also be considered. Significant portions of the existing "principal structure" and "accessory structure" already encroach further toward the slough and past the applicable stringlines. However, the proposed "structural" and accessory" additions do not encroach further toward the slough than the existing development. So while portions of the proposed additions do not adhere to the applicable stringlines, the project is still compatible to its surroundings in that they do not encroach any more toward the slough than existing development. Each development is reviewed on a case by case basis and while in this area stringline is typically used to prohibit encroachment toward the slough, in this instance the siting of the existing development already establishes the development pattern and the proposed project would not exacerbate an existing non-conformity. Thus, the development as proposed is consistent with the character of the surrounding area.

Commission staff is recommending **APPROVAL** of the proposed project subject to **ELEVEN (11) SPECIAL CONDITIONS** requiring: **1)** an assumption-of-risk agreement; **2)** no future shoreline protective device agreement; **3)** future development agreement; **4)** submittal of foundation plans; **5)** conformance with submitted project plans identifying the unpermitted rear patio deck and planter, steps leading to the slough, a small boat dock, and a large boat dock located in the ACOE property; **6)** conformance with submitted construction staging area(s) and construction corridor(s) plans; **7)** conformance with certain requirements related to the storage and management of construction debris and equipment; **8)** conformance with drainage and run-off control plans; **9)** submittal of revised landscape plans; **10)** adherence to requirements for exterior lighting adjacent



A G E N D A

**General Plan/LCP Implementation Committee
April 15, 2009
3:30 p.m.
City Council Chambers**

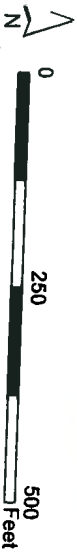
1. Approve Action Minutes from March 25, 2009
Attachment No. 1 3:30-3:35pm
2. Draft Zoning Code Review
 - A. Adult Business Regulations, Section 20.60.020 – Update from staff
 - B. Performance Guarantees (Revised), Section 20.68.060 – Provide comments on revised regulations (attached)
 - C. Recovery of Costs (Revised), Section 20.82.060 – Provide comments on revised regulations (attached)
 - D. Environmental Study Areas – Update from staff
 - E. Canyon Development Standards – Review revised standards and provide comments on regulations and exhibits (attached)
 - F. Revised Zoning Code Schedule – Provide comments to staff on revised schedule.(attached)

Attachment No. 2 3:35-5:45pm
3. Items for Future Agenda 5:45-5:50pm
4. Public Comments on non-agenda items 5:50-6:00pm
5. Adjourn to April 29, 2009, 3:30 p.m.

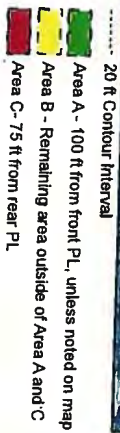
Attachments:

1. Draft action minutes from March 25, 2009
2. Draft Zoning Code Review support material

Buck Gully, South, Alternatives and April 2009



Buck Gully (South of PCH) Development on or Abutting Bluffs and Canyons



NPB-MAJ-1-04
City of Newport Beach LUP Update

existing development in the subject area. Accessory improvements are subject to analogous restrictions through Suggested Modifications 129 and 130. It is made clear that all of these bluff setbacks shall be increased where necessary to ensure safety and stability of the development. Additionally, Suggested Modification 133 requires swimming pools located on bluff properties to incorporate leak prevention and detection measures.

Suggested Modification 122 clarifies that only private development on Ocean Boulevard determined to be consistent with the predominant line of development and necessary public improvements will be allowed on bluff faces. Any further alteration of bluff faces will be prohibited. The Commission makes these modifications to ensure stability and protect coastal views, while recognizing past alteration and development patterns in the City. It is not necessary or appropriate to distinguish between altered and unaltered bluffs or to say that bluffs are no longer considered "coastal bluffs" because they have been significantly graded.

As modified, the policies allow development to occur in much the same manner it currently does in infill areas. Suggested Modification 132 maintains approved bluff edge setbacks for the coastal bluffs within the planned communities of Castaways, Eastbluff, Park Newport, Newporter North (Harbor Cove), and Bayview Landing. Suggested Modification 120 requires more stringent public access/setback requirements for new planned communities.

Development that currently exists on the bluff face on Ocean Boulevard will be allowed to continue in accordance with the predominant line of development if deemed geologically feasible, as addressed in Suggested Modification 131. Similarly, Suggested Modification 125 specifies that the bluffs along Bayside Drive that have been cut and filled by the Irvine Terrace and Promontory Point development will be subject to the setback restrictions established for bluffs not subject to marine erosion. As such, the "predominant line of development" standard will apply there.

Coastal canyon development will be regulated in much the same way. Where there was previously no setback for development on canyon lots, there is now a requirement to comply with the "predominant line of development." Suggested Modification 134 provides this new standard for development along Buck Gully and Morning Canyon. The addition of a canyon setback regulation in these areas will prevent significant landform alteration and limit encroachment into natural habitats.

As modified, more conservative setback standards would be applied to potentially hazardous lots, thereby providing better assurance of long-term stability. When development is properly sited, the need for construction of protective devices to support new development is avoided. Therefore, the Suggested Modifications ensure conformance with Sections 30253 and 30251 of the Coastal Act.

Google

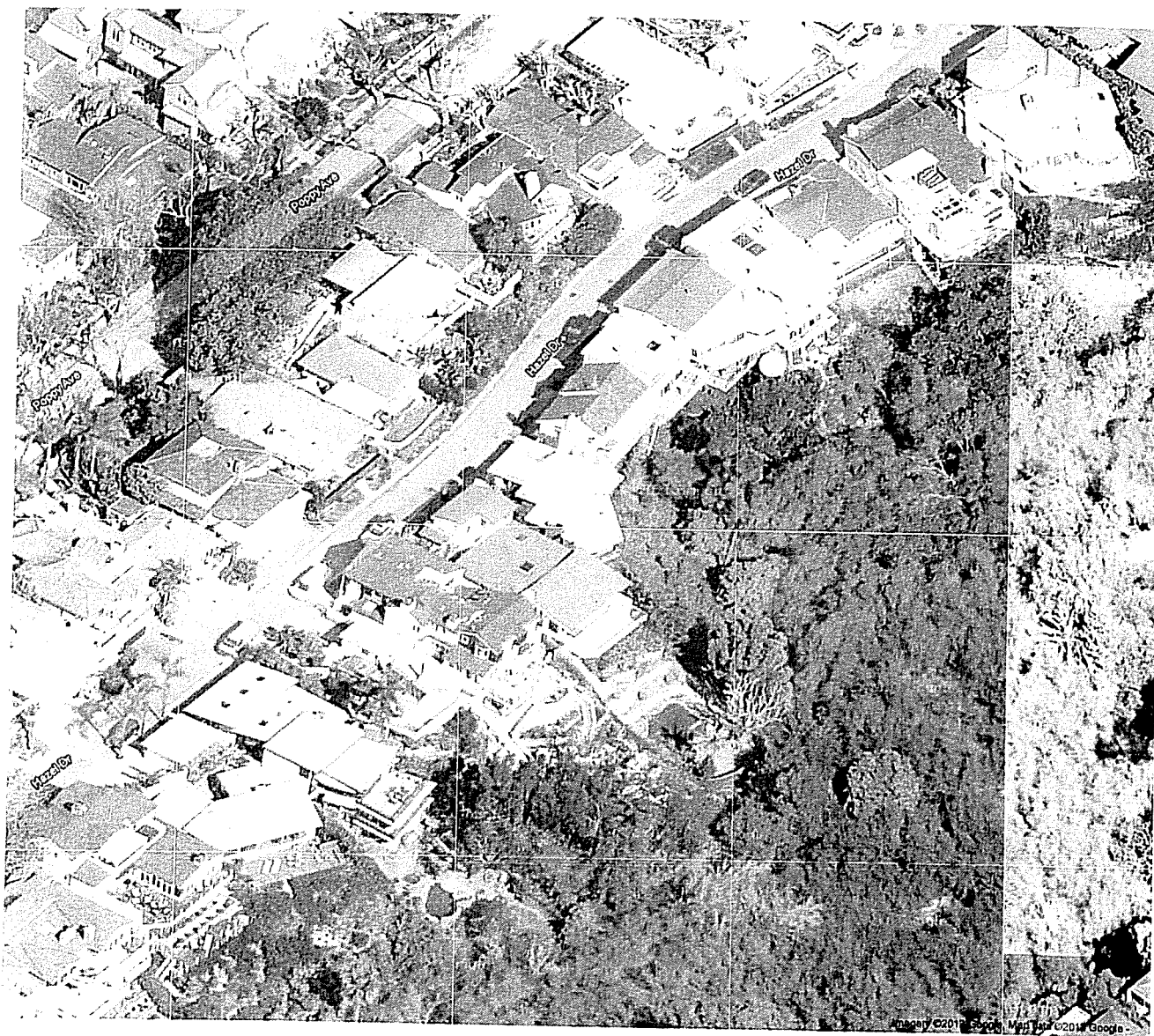
To see all the details that are visible on the screen, use the "Print" link next to the map.



Knight0045

Go gle

To see all the details that are visible on the screen, use the "Print" link next to the map.



Knight0046

MEAN

north (8-15)

324'-8" / 8 = 40'-7"

South (1-7)

358'-6" / 7 = 51'-3"

House	Distance
1	51'-2"
2	49'-0"
3	42'-7"
4	50'-9"
5	57'-5"
6	52'-6"
7	54'-11"
TOTAL	358'-6"
8	23'-11"
9	27'-6"
10	35'-9"
11	34'-7"
12	32'-11"
13	43'-0"
14	53'-10"
15	73'-10"
TOTAL	324'-8"



-----Original Message-----

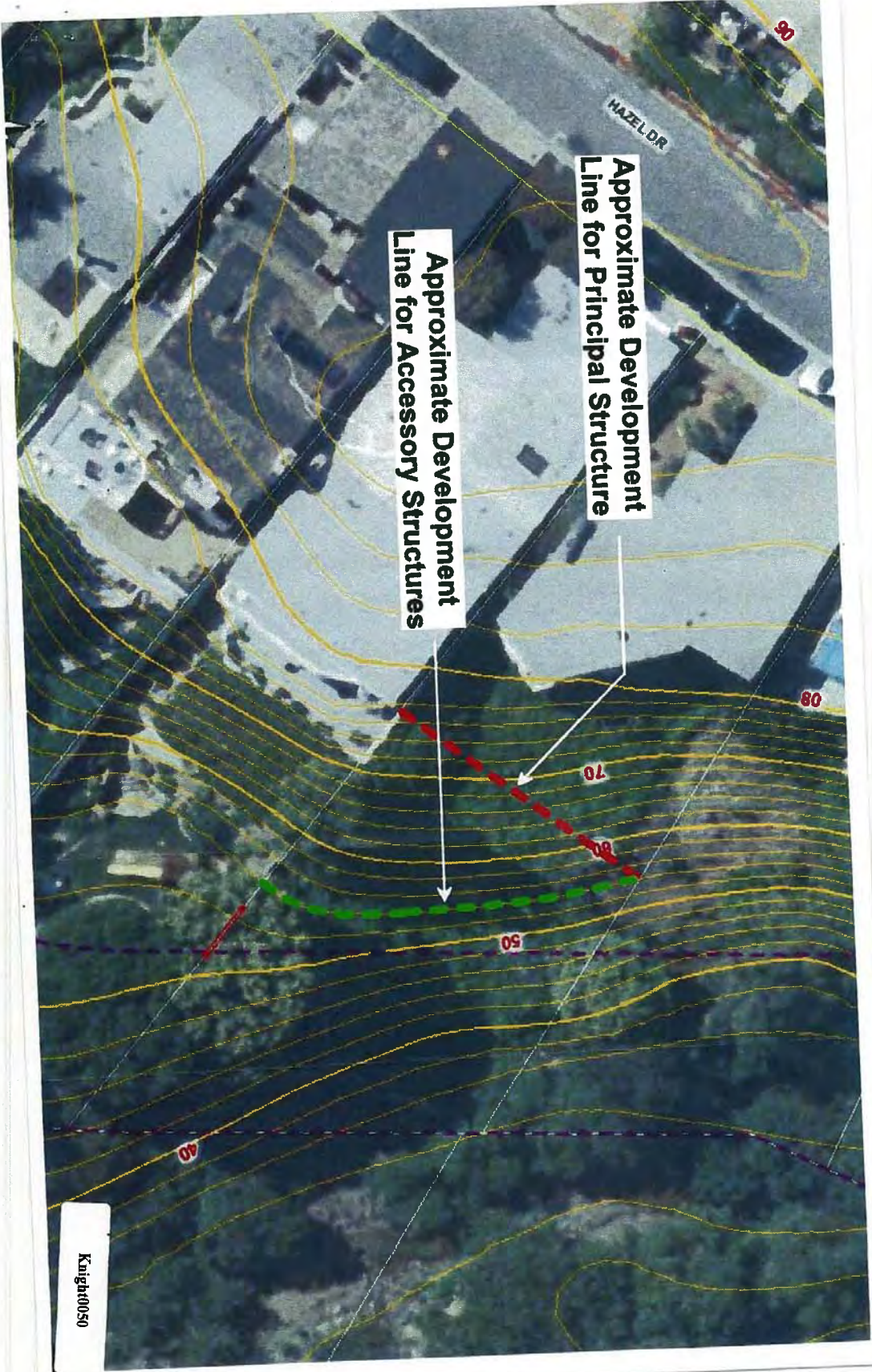
From: Alford, Patrick
To: Rosenthal, Deborah M.
Sent: Fri Nov 02 11:05:52 2007
Subject: 312 Hazel

<<Glacier Bkgrd.jpg>> <<line of development.jpg>>
Deborah,

David is prepared to find that if the new principal structure does not extend beyond principal structure located at 308 Hazel Drive and steps down the slope as depicted in the simulation in your October 19, 2007 letter, the development will be consistent with Criterion No. 7. As for the proposed accessory structures, David believes that if these improvements are terraced as depicted in the simulation and do not extend further down the slope than the first terraced area on the 308 Hazel Drive property, which is within the 54-foot contour line, the development will be consistent with Criterion No. 7. The attached exhibit depicts the approximate line of development for the principal structure and for accessory structures.

If your clients are in agreement, we will send you a letter containing this interpretation.

Patrick J. Alford
Senior Planner
City of Newport Beach
Planning Department
3300 Newport Blvd.
Newport Beach, CA 92663
(949) 644-3235 (Voice)
(949) 644-3229 (Fax)



Approximate Development
Line for Principal Structure

Approximate Development
Line for Accessory Structures

Knight0050



CITY OF NEWPORT BEACH

PLANNING DEPARTMENT

RECEIVED
JAN 14 2008
BINGHAM
ORANGE COUNTY

January 10, 2008

Deborah M. Rosenthal
Bingham McCutchen LLP
600 Anton Boulevard | Suite 1800
Costa Mesa, CA 92626

RE: 312 Hazel Drive

Dear Ms. Rosenthal,

Thank you for your assistance in establishing development parameters for the proposed development at 312 Hazel Drive. As you know, Ordinance No. 2007-3 established procedures for the implementation of the General Plan during the interim period while the Zoning Code and other ordinances and regulations are being updated. Criterion No. 7 states:

Site planning should follow the basic principle of designing development to fit the features of the site rather than altering the site to fit the design of the development. Whenever possible, altering natural features such as cliffs, canyons, bluffs, significant rock outcroppings, natural vegetation should be avoided or the extent of alternation minimized. Adequate buffers should be provided to protect significant or rare biological resources.

After reviewing your exhibits, I have concluded that if the new principal structure does not extend beyond principal structure located at 308 Hazel Drive and steps down the slope as depicted in the simulation in your October 19, 2007 letter, the development will be consistent with Criterion No. 7. As for the proposed accessory structures, if these improvements are terraced as depicted in the simulation and do not extend further down the slope than the first terraced area on the 308 Hazel Drive property, which is within the 54-foot contour line, the development will be consistent with Criterion No. 7. The attached exhibit depicts the approximate line of development for the principal structure and for accessory structures.

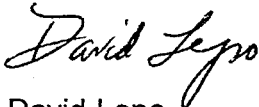
Please note that is for purposes of interpreting Criterion No. 7 of Ordinance No. 2007-3 only. This interim ordinance will expire when the new Zoning Code is adopted. New building permit applications will have to comply with the property development regulations contained in the new Zoning Code. At this time, it is estimated that the new Zoning Code will be adopted sometime around mid-year 2008.

312 Hazel Drive
January 10, 2008
Page 2 of 2

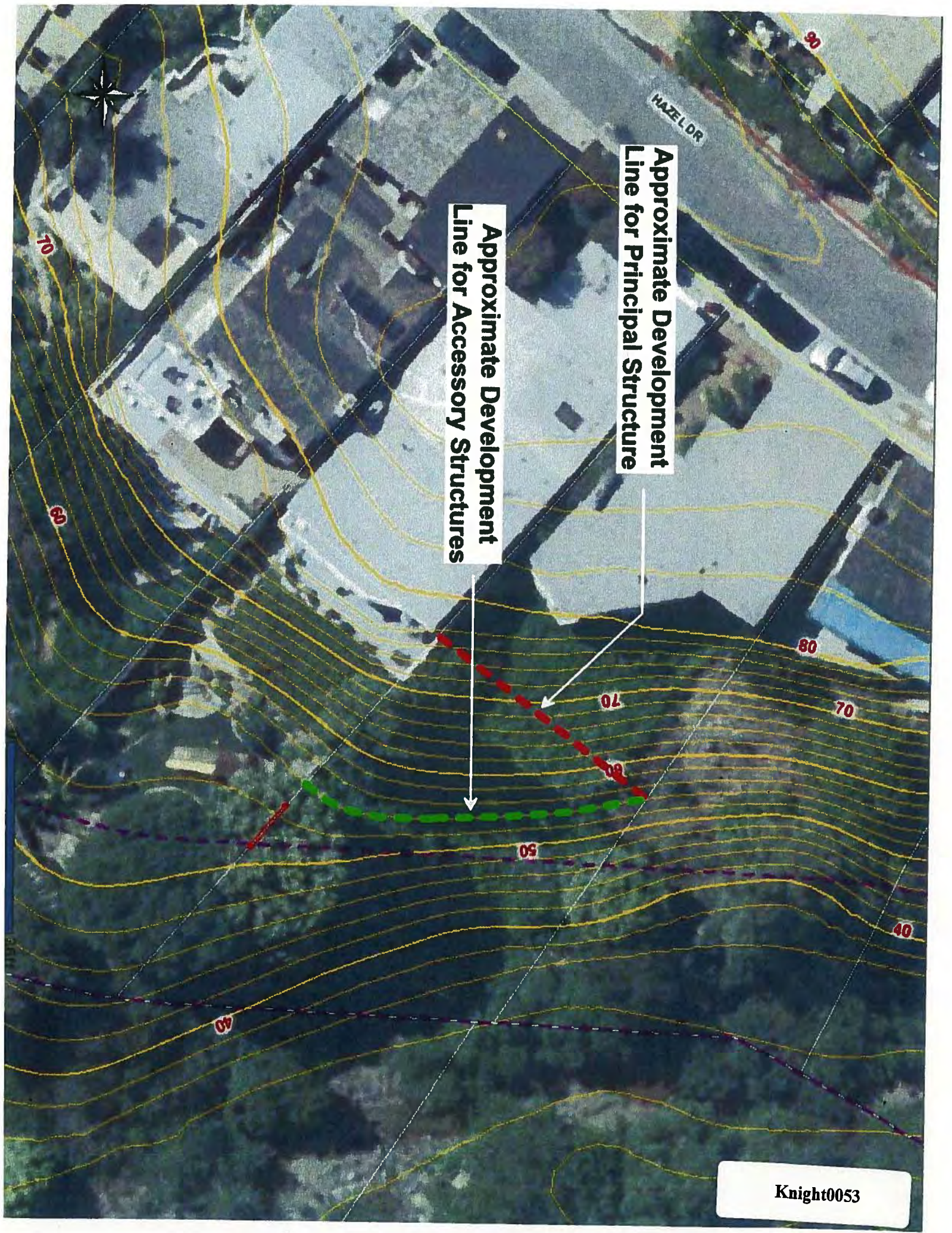
This interpretation was prompted by new direction provided to staff from members of the General Plan/LCP Implementation Committee. It involved policy issues other than those raised in your client's appeal. Therefore, I believe that it is appropriate to refund the \$600.00 filing fee, should your client choose to withdraw the appeal.

As to your request regarding compliance with other City requirements, our ability to perform an analysis was limited as we were only given a partial set of conceptual plans that were not drawn to scale. However, we did route the conceptual plans to other City departments for comments. Copies of their comments are attached and I hope that you find them useful.

Sincerely,

A handwritten signature in cursive script that reads "David Lepo".

David Lepo
Planning Director



Approximate Development
Line for Principal Structure

Approximate Development
Line for Accessory Structures



Newport Beach Fire Department
Fire Prevention Division
3300 Newport Blvd.
Newport Beach, CA 92663
(949) 644-3106

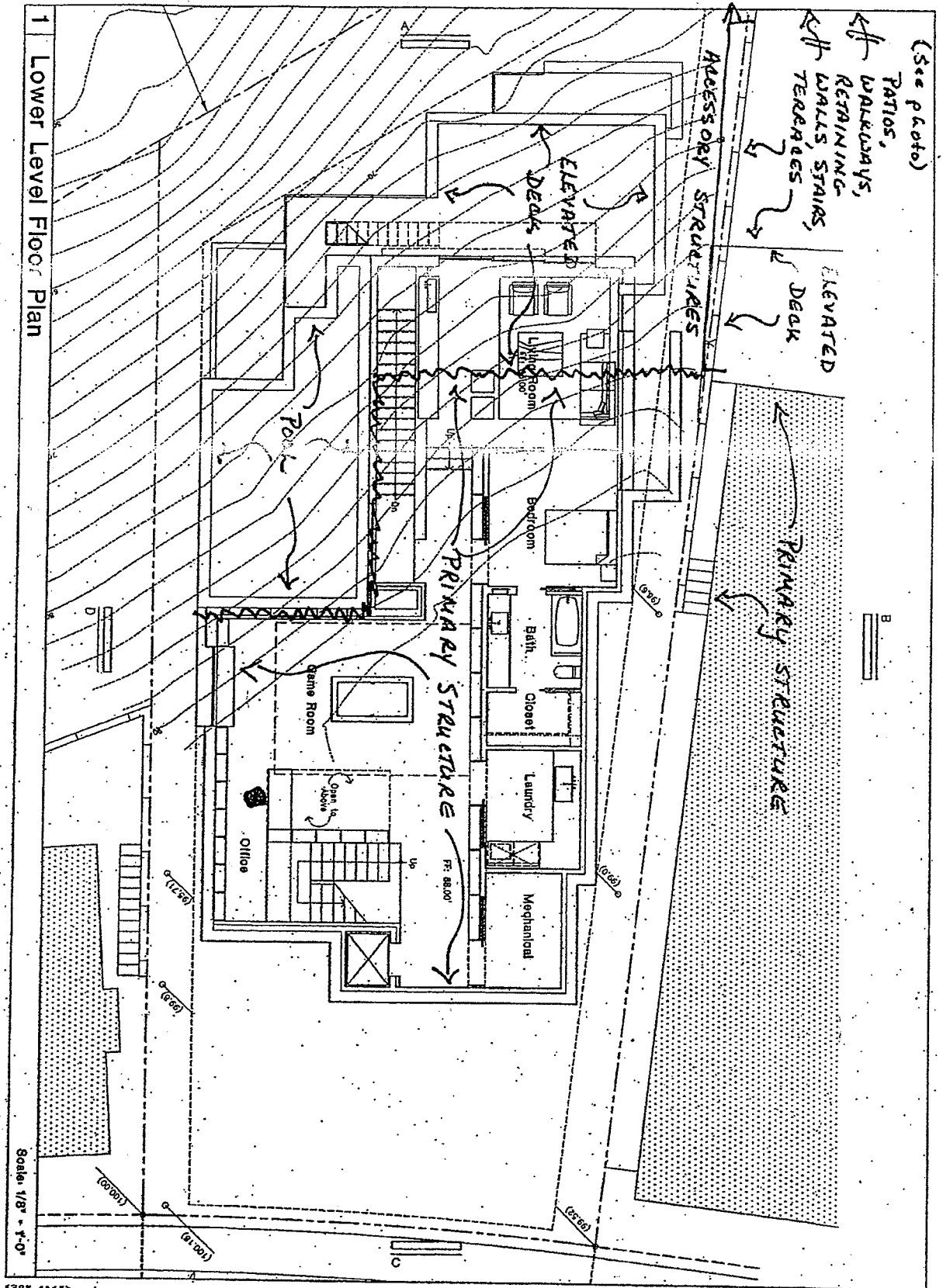
Planning Commission Project Review
Conditions for Approval

DATE: December 13, 2007

PROJECT LOCATION: 312 Hazel Drive

Conditions:

1. Building is located adjacent a special fire protection area. Property will require a fuel modification plan and meet construction requirements in accordance with amended Chapter 7A of the 2007 California Building Code.



Bobolewski
 ARCHITECTS
 1000 15th St. NW
 Suite 1000
 Washington, DC 20004
 Phone: (202) 462-1000
 Fax: (202) 462-1001
 Email: info@bobolewski.com

LS architects
 LAIDLAW SCHULTZ

(see photo)

← Pans,
WALKWAYS,
RETAINING-
WALLS, STAIRS,
TEARAGES

ELEVATED
DECK

← PRIMARY STRUCTURE

ACCESSORY STRUCTURES

1 Street Level Floor Plan

Scale: 1/8" = 1'-0"

Sobolewski
ARCHITECT
1111 Broadway, Suite 200
New York, NY 10018
Tel: 212 691-1111
Fax: 212 691-1112
www.sobolewski.com

LS architects
LAIDLAW SCHULTZ

(See Photo)

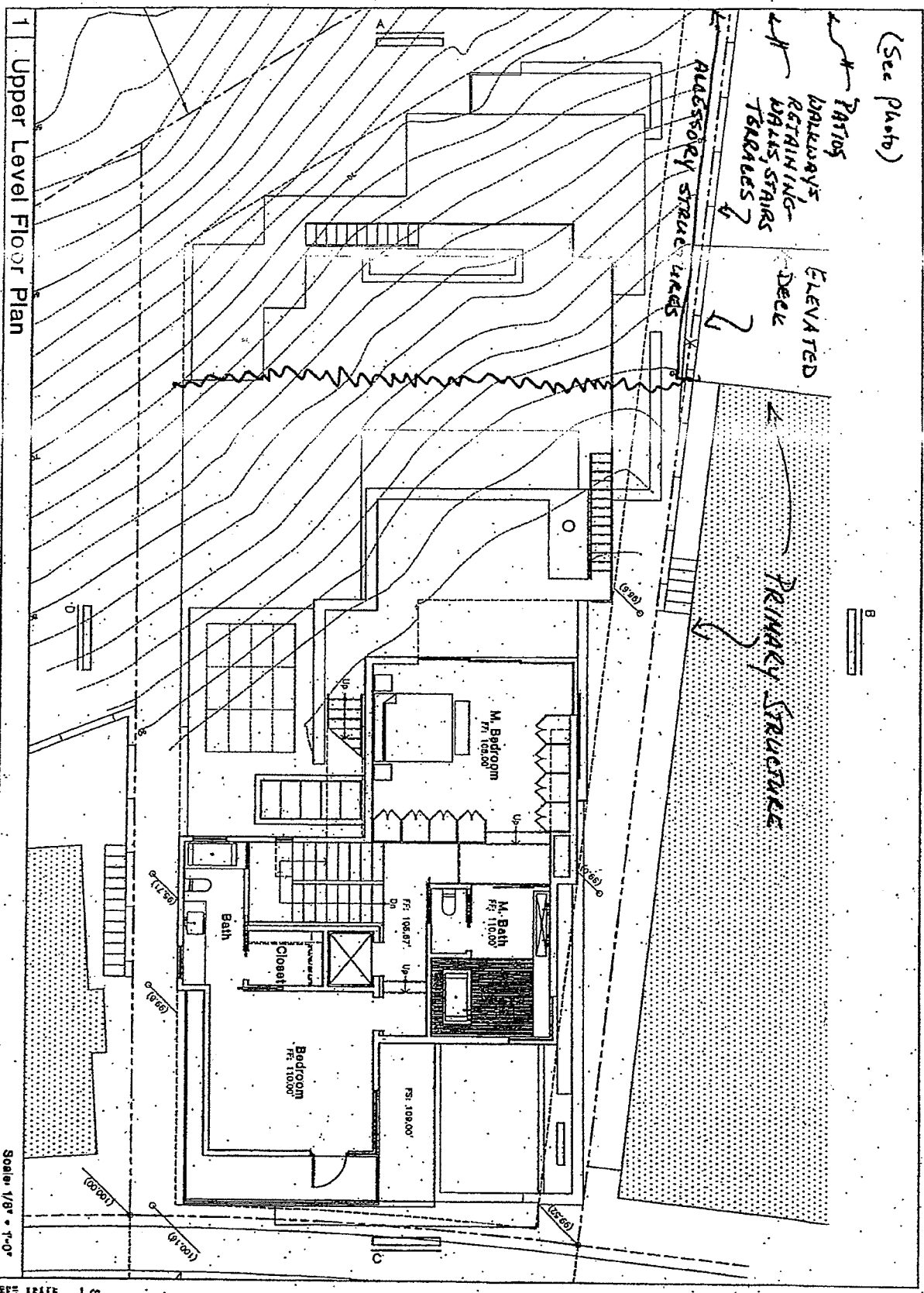
Partos
Walkways,
Retaining-
Walls, Stairs
Terraces

ELEVATED
Deck

Primary Structure

Accessory structures

1 Upper Level Floor Plan



Scale: 1/8" = 1'-0"

LS architects
LAIDLAW SCHULTZ

Sobolowski
04/27/12
This drawing was prepared by the architect for the purpose of illustrating the proposed design. It is not to be used for construction without the approval of the architect. The architect assumes no responsibility for the accuracy of the information provided by others. The architect's office is located at 1111 Broadway, New York, NY 10036. Phone: (212) 691-1234. Fax: (212) 691-1235. Email: info@lsarchitects.com

(See plan b)

Parties,
walkways,
retaining
walls, stairs
terraces, etc.

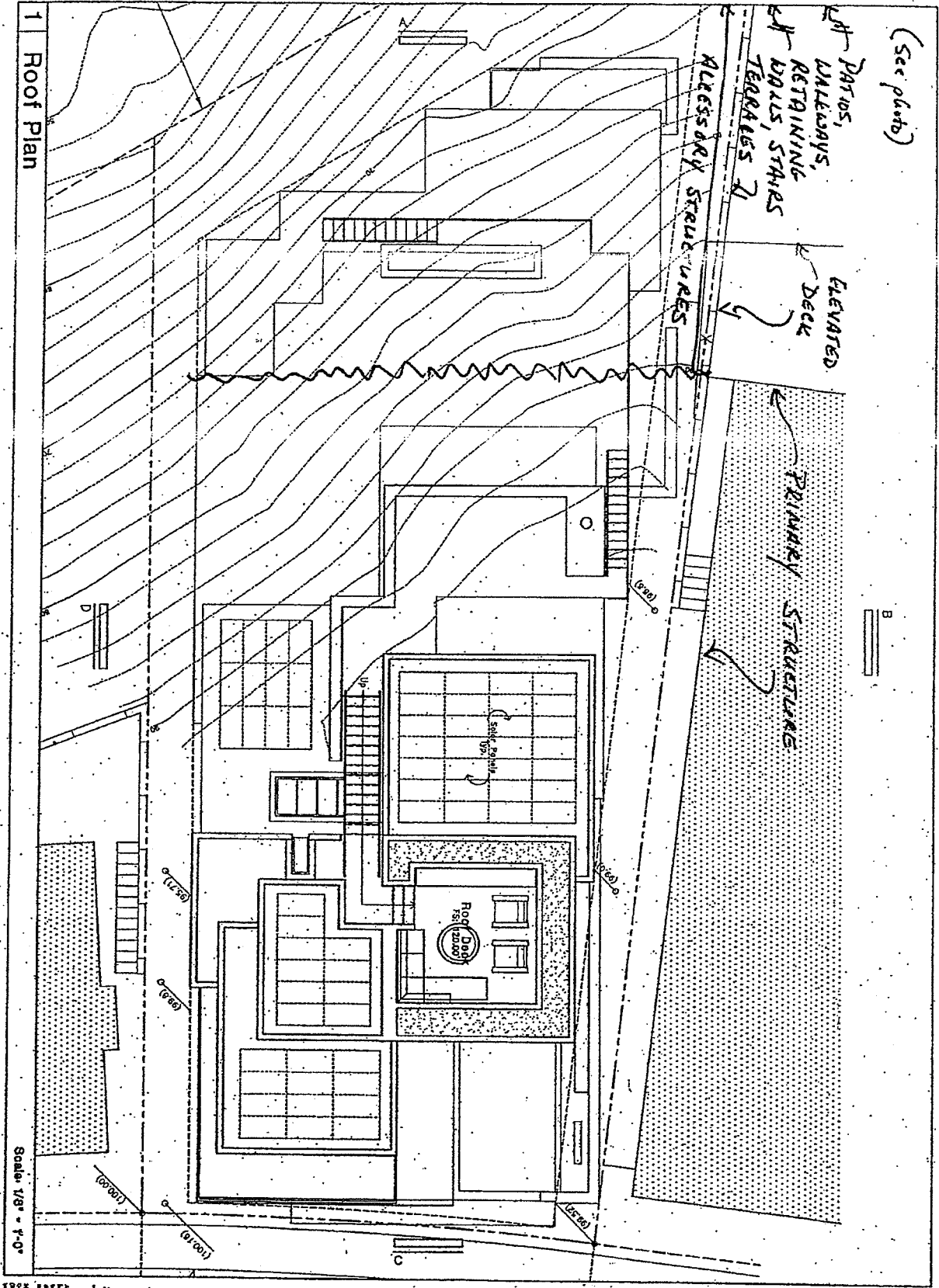
Accessary structures

Elevated
Deck

Primary Structures

B

1 Roof Plan

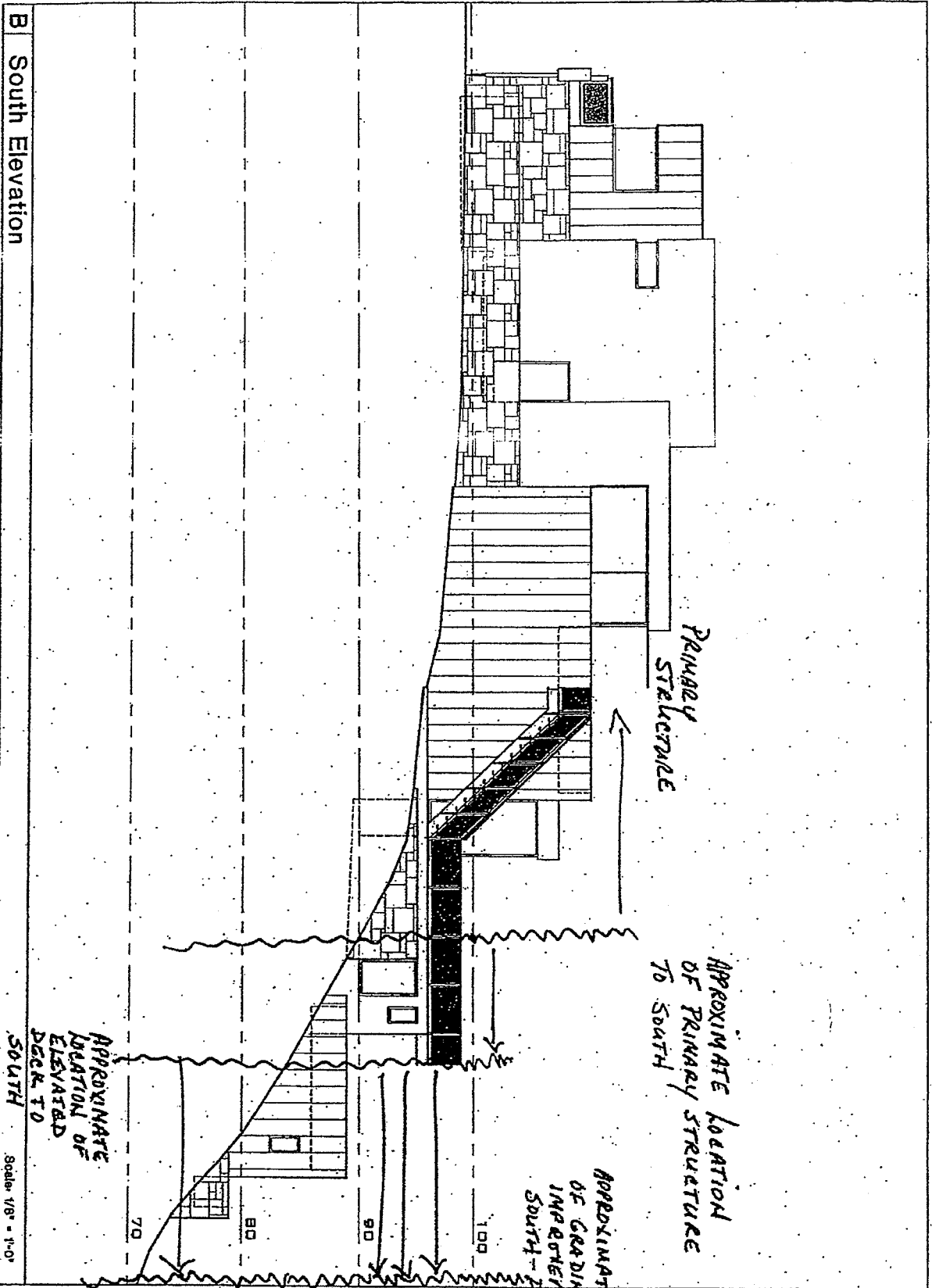


Scale: 1/8" = 1'-0"

Scholarwerk

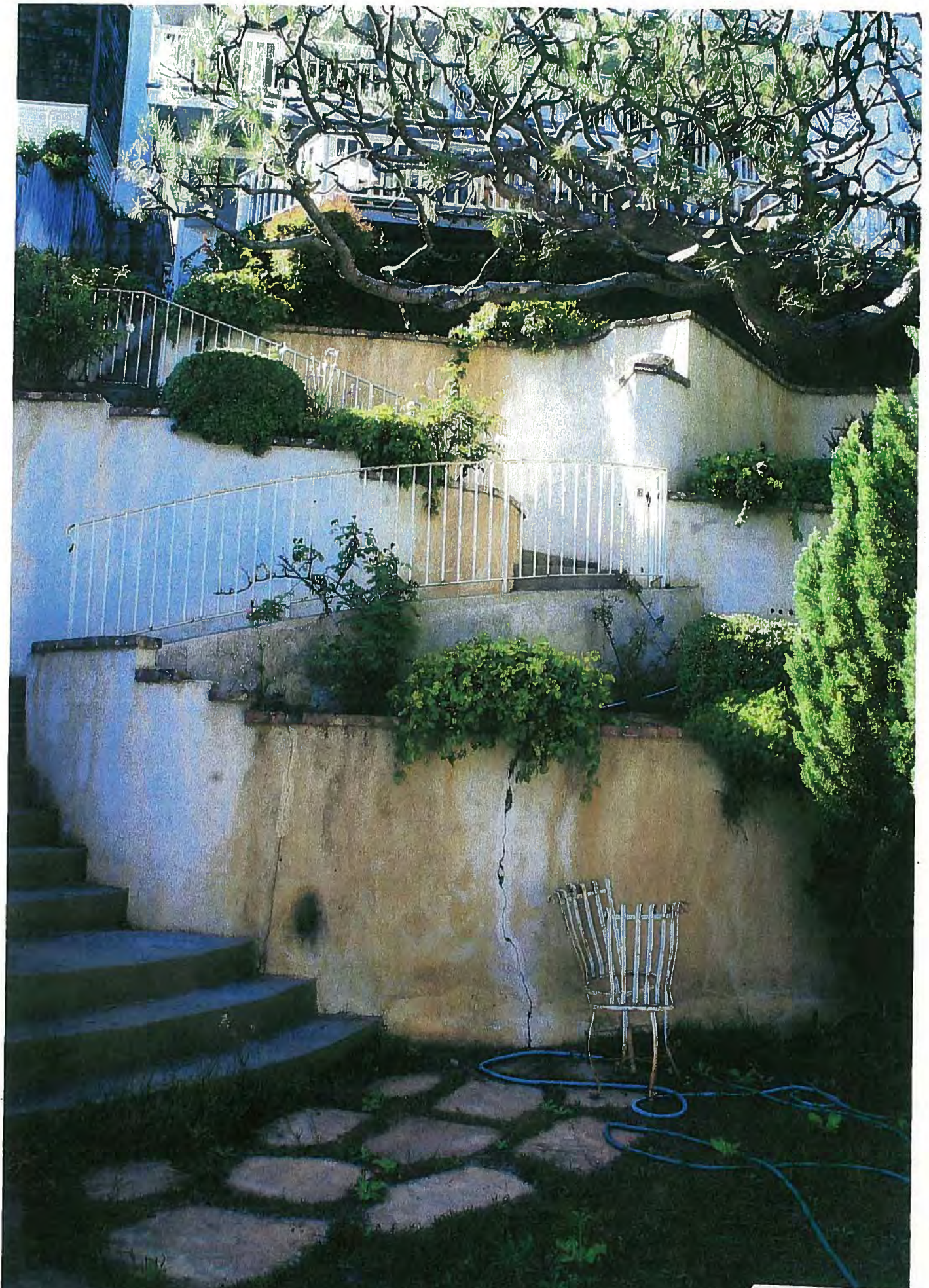
Architectural and engineering drawings are the property of the firm and shall remain confidential. No part of these drawings shall be reproduced or transmitted in any form or by any means electronic, mechanical, photocopying, recording, or by any information storage and retrieval system without the prior written permission of the firm.

LS architects
LAIDLAW SCHULTZ



Sobolewski
 ARCHT. INC.
 11111 Broadway Avenue
 Suite 100
 San Diego, CA 92121
 Phone: 619-594-1111
 Fax: 619-594-1111

architects
 LAIDLAW SCHULTZ



Knight0060



Knight0061



Knight0062

Burns, Marlene

Knight Residence and Ou Residence

PA2013-044 and PA2013-043

From: Brandt, Kim
Sent: Wednesday, April 03, 2013 10:53 AM
To: Burns, Marlene
Subject: FW: Knight Appeal - Planning Commission Agenda Item 4

FYI.

Kim

From: Deborah Rosenthal [<mailto:DRosenthal@sheppardmullin.com>]
Sent: Wednesday, April 03, 2013 10:51 AM
To: Brandt, Kim
Cc: Diane Knight; Cathy Richardson; Campbell, James; Nova, Makana
Subject: Knight Appeal - Planning Commission Agenda Item 4

Kim:

I represent Diane Knight, whose appeal of a stringline determination is Item 4 on the Planning Commission agenda tonight. As we discussed, my son was in a bicycle accident last night and requires surgery this afternoon, which will make it impossible for me to attend tonight's hearing. I therefore requested a 2-week continuance, to the next Planning Commission meeting on April 18, 2013. Both Ms. Knight and Dr. Ou are in agreement with this request.

This email confirms that we have agreed to continue the hearing on Item 4 to April 18, 2013. No one will appear this evening on behalf of the appellants.

Thank you for your understanding.

Deborah Rosenthal
Costa Mesa | x12821
SheppardMullin

Circular 230 Notice: In accordance with Treasury Regulations we notify you that any tax advice given herein (or in any attachments) is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding tax penalties or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or in any attachments).

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SheppardMullin

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www.sheppardmullin.com

714.424.2821 direct
drosenthal@sheppardmullin.com

March 19, 2013

File Number: 35HF-176794

VIA E-MAIL AND FEDEX

Planning Commission
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

RECEIVED BY
COMMUNITY
MAR 21 2013
DEVELOPMENT
CITY OF NEWPORT BEACH

Re: Appeal of Stringline Determination for 312 Hazel Drive, Corona del Mar (Knight Appeal)

Dear Planning Commissioners:

On behalf of Diane Knight, this letter appeals the Stringline Determination for 312 Hazel Drive issued by the Planning Director on February 15, 2013. The lot under appeal (the "Lot") is located on lower Buck Gully south of Pacific Coast Highway in Corona del Mar. Knight0001 Under General Plan Policy NR 23.6 and Coastal Land Use Plan Policy 4.4.3-18, the City is required to establish a "predominant line of existing development" for new structures on Buck Gully. The Planning Director previously established primary and accessory "lines of development" for this Lot on January 10, 2008; this appeal requests reinstatement of those lines in accordance with approved building plans.

Background

The property was purchased by the Knight-Sobelewski family ("Knight") in 2003. In June 2007, the Planning Department imposed a diagonal Stringline at or about the rear setback of the existing house, based on the corners of the immediately adjacent structures. The family appealed this decision to the Planning Commission ("2007 Appeal"). A copy of the 2007 Appeal is attached as Knight0002-34. Before the hearing, the Planning Director identified a primary "line of development" at the same rear setback as the adjacent house to the south, and an accessory "line of development" on a diagonal along the 54' contour. A copy of the Planning Director's 2008 Determination is attached as Knight0049-59.

The Knights accepted the Planning Director Determination, withdrew the 2007 Appeal and completed building plans. A building permit was issued for a new, larger home (the "Project") in 2009, but expired in 2011 after Mr. Sobelewski became terminally ill. He died in July 2012 and Ms. Knight has listed the home for sale. Plans for the home are attached as Knight0010-15 (Exhibit 1 to the 2007 Appeal). Potential buyers have requested reinstatement of the building permit as a condition of purchase.

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Planning Commission
March 19, 2013
Page 2

In the original 2007 Appeal, the Knights requested establishment of a "predominant line of existing development" for Buck Gully in accordance with the General Plan and CLUP. They identified two possible predominant lines, based on the rear setbacks of a representative block of surrounding structures. The first "predominant line" was a primary setback based on the rear line of the 10 adjacent homes on lots with similar developable acreage, excluding lots with severe topography not present on the Lot. The alternate predominant line was a single line based on the rear line of all statutorily-defined development, including accessory structures, of the 15 adjacent homes. Both of the proposed lines attempted to avoid creating non-conforming structures. Using a structure-by-structure stringline, for instance, makes more than half of the existing homes non-conforming. A graphic study showing the effect of a stringline is attached as Knight0048.

At the same time, the City's General Plan/LCP Implementation Committee considered establishment of a predominant line of development along Buck Gully south of PCH. A map showing proposed 100' Development Areas along Buck Gully from the April 15, 2009 Committee Meeting is attached as Knight0042-43. The draft Committee Development Areas were similar, but somewhat larger than the Knight proposals for a predominant line. The Committee did not finalize a predominant line of development in 2009, but decided to defer adoption until preparation of the Implementation Plan.

In the absence of an adopted predominant line in 2007, the Planning Director determined primary and accessory development lines for the Lot that complied with all potential development setbacks. In making this Determination, the Planning Director also recognized site-specific factors affecting the Lot, including topography and a 32' or 120% variance in setbacks between the nearest points on adjacent structures. After consulting with the General Plan/LCP Implementation Committee, the Planning Director found the Project consistent with the site planning principles of Criterion No. 7 of Ordinance No. 2007-3 and the setback direction of the Committee. Knight0051-52.

Unfortunately, Mr. Sobelewski died before the home could be built. In response to an inquiry about reinstating the expired building permit in February 2013, the Planning Director applied the same diagonal Stringline challenged in the 2007 Appeal. The Stringline does not allow construction of the home approved in 2008 in reliance on the previous Planning Director Determination. This second appeal followed ("2013 Appeal"). Knight0035-37.

There have been no changes in the relevant sections of the General Plan, CLUP or Zoning Code since 2008 when the building permit was issued for 312 Hazel Drive. The "predominant line of existing development" policy was adopted by the City in 2005 and has not been modified since that time. The City and the Coastal Commission have both acknowledged on numerous occasions that the policy is intended to be applied in a flexible manner, with due regard for site-specific factors and development rights.

Ms. Knight cannot proceed with sale of her property unless the Planning Commission establishes a predominant line of development for the Lot. The line of development applied by the Planning Director in resolving the 2007 Appeal is consistent with existing policy and

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Planning Commission
March 19, 2013
Page 3

procedures, and will allow the sale to go forward. This 2013 Appeal should be granted and the previously-approved development lines shown at Knight0037 reinstated.

City Policies Require Application Of A Predominant Line of Development, Not A Stringline

General Plan Policy NR 23.6 (Canyon Development Standards) and CLUP Policy 4.4.3-18 (Natural Landform Protection) state:

Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements. (Emphasis added.)

Under the express language of the Canyon Development Policies, therefore, the City is required to establish and apply canyon setbacks based on the predominant line of development. A stringline is not a substitute for establishment of a predominant line, but a method of preventing construction beyond the predominant line.

The required setback is based on the predominant line of development for a representative group of homes along lower Hazel Drive. The Glossary defines "predominant line of development" as:

The most common or representative distance from a specified group of structures to a specified point or line (e.g. topographic line or geographic feature). For example, the predominant line of development for a block of homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).

The Glossary defines "development" as "the placement or erection of any solid material or structure; ... construction, reconstruction, demolition, or alteration of the size of any structure ...". The City typically considers development to include any structure requiring a building permit in the Coastal Zone, including decks, pools and retaining walls.

At the time of adoption, Coastal Commission Staff explained that the purpose of Policy 4.4.3 was to impose an overall "predominant line of development" along blocks of homes. After discussing application of the new predominant line of development standard to coastal bluffs in suggested modifications to the 2005 CLUP Update, the Staff Report stated:

Coastal canyon development will be regulated in much the same way. Where there was previously no setback for development on canyon lots, there is now a requirement to comply with the "predominant line of development." Suggested

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Planning Commission
March 19, 2013
Page 4

Modification 134 provides this new standard for development along Buck Gully and Morning Canyon. The addition of a canyon setback regulation in these areas will prevent significant landform alternation and limit encroachment into natural habitats." Suggested Modifications, p. 80, NPB-MAJ-1-04, October 13, 2005 (Item Th 8d). An excerpt of the Coastal Commission Staff Report is attached as Knight0044.

The City accepted the Commission modifications, including Policy 4.4.3-18, in December 2005. In conversations with City Staff in 2007, they advised the intent of Policy was to allow flexibility in establishing setbacks in built-up areas like Hazel Drive on lower Buck Gully.

The Approved Building Plans Are Consistent With Any Predominant Line of Development

This 2013 Appeal can be resolved by establishing an individual predominant line of development for the Knight Lot without affecting the entire block of homes. Staff concurs that this approach is allowed under the CLUP and consistent with City procedures. Ms. Knight proposes a predominant line that meets the following tests: it grants similar development rights to similar properties; it applies a standard that avoids creating non-conformities on existing lots to the extent possible; and it does not interfere with adoption of a predominant line for the entire block of homes in the future. The building plans previously approved by the Planning Director meet all of these tests.

The purpose of a predominant line of development is to control encroachment into natural areas, while respecting the rights of adjacent owners to use their property on an equitable basis. In this case, two aerial photographs are worth several thousand words. Two photographs of lower Hazel Drive, dated 3/5/2013, are attached as Knight0045-46; 0062. As clearly shown, "development" extends almost to the bottom of Buck Gully on a number of lots. The Knight Lot is tucked behind a much larger structure, blocking any views to the south. All but 4 lots extend farther into the Gully than the Knight Lot.

The General Plan/LCP Implementation Committee considered a 100' setback from the front property line as the predominant line of development, including both primary and accessory development in the same zone. Knight0042-43. This predominant line did not make any of the existing structures non-conforming, and would comfortably allow construction of the Knight Project, which extends 54'11" from the property line for the primary structure and less than 30' for decking and other accessory structures. As approved, the plans are consistent with the 100' setback line considered by the Committee.

In the 2007 Appeal, the City also considered information about existing setbacks submitted by the Knight family. All of the existing structures, both primary and accessory, were measured from their front property lines, and the size of lots analyzed. As shown on Knight0023-30 (Exhibits 4, 5, 6 and 7 to the 2007 Appeal), simple setback

SheppardMullin

Planning Commission
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averaging made a high percentage of lots non-conforming. Even dropping out the lots constrained by topography made seven of the lots non-conforming. Factoring in the size of lots, together with topography, met the above standards, and minimized non-conformity. See Knight0031-32 (Exhibit 8 to the 2007 Appeal). The preferred predominant line incorporated accessory structures within the setback lines in accordance with the City's definition of "development" and the general approach of the Committee. See Knight0033-34 (Exhibit 9 to the 2007 Appeal). The Knight Project is consistent with either of these predominant lines.

The "line of development" determined by the Planning Director on the 2007 Appeal was even more restrictive than the above lines, thus ensuring consistency with any future adoption. The primary line was set at 54'11" or at the same setback as the neighboring house to the south. The accessory line was set at the limit of the first terraced area on the property to the south, which is at the 54-foot contour line. This Determination allowed the residence to extend into Buck Gully by the same distance as the residence at 308 Hazel Drive, but required accessory structures to pull back to the north. It also reflected the larger size of the Lot, which has more developable area than most other Hazel Drive lots.

The Previously Approved Line Of Development for the Knight Lot Is Consistent With Precedent

In the absence of adopted predominant lines of development for Buck Gully and Morning Canyon, the City has used a modified stringline approach to ensure consistency with potential future predominant lines of development. For instance, of 16 stringline projects made available for review, four were approved before Policy 4.3.3-18 was adopted and another three were submitted at the same time as the Knight Project. Of the total 16 projects, stringlines were exceeded or modified for site-specific reasons in at least 12 cases. On some lots, both the primary and accessory structures appear to exceed the designated stringline. In other cases, the nearest structural corner is not used or the connection is unclear. City Staff has also worked with the Evening Canyon homeowners association, which applies its own slightly different stringlines to homes on the east side of Buck Gully. Aerial photographs of the 16 lots are available upon request.

Even in situations where a predominant line of development is not adopted, the Coastal Commission has applied stringlines flexibly to reflect existing development patterns, site characteristics and equity. At 3 Canal Circle in Newport Beach, for instance, the Coastal Commission explained that "each development is reviewed on a case-by-case basis and while in this area stringline is typically used to prohibit encroachment toward the [Semeniuk] slough, in this instance the siting of the existing development already established the development pattern and the proposed project would not exacerbate an existing non-conformity. Thus, the development as proposed is consistent with the character of the surrounding area." Staff Report, p. 1, #5-10-254, October 28, 2010 (Item W4a), attached as Knight0041. At 168 West Avenida San Antonio in San Clemente, the Commission rejected a stringline that "would further restrict the size of the development footprint compared with adjacent pattern of development

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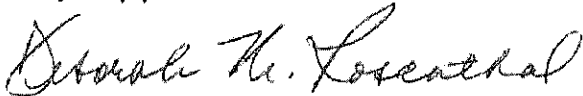
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with no significant benefit of increased protection of coastal resources." Staff Report, pp. 10-11, #5-12-314, December 19, 2012 (Item W19g), attached as Knight0038-40.

Conclusion

For all of the above reasons, Ms. Knight requests reinstatement of the development line for 312 Hazel Drive previously determined by the Planning Director in 2008, or adoption of the predominant line of development shown at Knight0033-34 (Exhibit 9 of the 2007 Appeal).

Very truly yours,



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for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:408169837.2
Attachments

cc: Ms. Diane Knight
Ms. Kimberly Brandt, AICP
Mr. James Campbell
Ms. Makana Nova